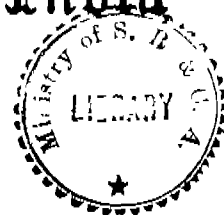


The Gazette of India



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MINISTRY OF LAW (Legislative Department)

New Delhi, the 29th December, 1960/PAUSA 8, 1882 (Saka)

The following Act of Parliament received the assent of the President on the 28th December, 1960, and is hereby published for general information:—

THE COMPANIES (AMENDMENT) ACT, 1960

No. 65 of 1960

[28th December, 1960]

An Act further to amend the Companies Act, 1956

Enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. This Act may be called the Companies (Amendment) Act, Short title, 1960.

2. In section 2 of the Companies Act, 1956 (hereinafter referred to as the principal Act),— Amendment of section 2.

1 of 1957.

(a) in clause (3), in sub-clause (c),—

(i) the word “and” at the end of paragraph (i) shall be omitted;

(ii) after paragraph (ii), the following paragraph shall be inserted, namely:—

“(iii) any subsidiary of the other body corporate referred to in paragraph (ii) above:

Provided that where the body corporate is the managing agent of the other body corporate referred to in paragraph (ii) above, a subsidiary of such other body corporate shall not be an associate in relation to the managing agent aforesaid; and”;

(b) in clause (4), in sub-clause (b),—

(i) the word “and” at the end of paragraph (i) shall be omitted;

(ii) after paragraph (ii), the following paragraph shall be inserted, namely:—

“(iii) any subsidiary of the other body corporate referred to in paragraph (ii) above:

Provided that where the body corporate is the secretaries and treasurers of the other body corporate referred to in paragraph (ii) above, a subsidiary of such other body corporate shall not be an associate in relation to the secretaries and treasurers aforesaid; and”;

(c) in clause (7), for the words “does not include a corporation sole”, the following words shall be substituted, namely:—

“does not include—

(a) a corporation sole;

(b) a co-operative society registered under any law relating to co-operative societies; and

(c) any other body corporate (not being a company as defined in this Act) which the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(d) for clause (9), the following clause shall be substituted, namely:—

“(9) “branch office” in relation to a company means—

(a) any establishment described as a branch by the company; or

(b) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the company; or

(c) any establishment engaged in any production, processing or manufacture,

but does not include any establishment specified in any order made by the Central Government under section 8;”;

(e) for clause (11), the following clause shall be substituted, namely:—

“(11) “the Court” means,—

(a) with respect to any matter relating to a company (other than any offence against this Act), the Court

having jurisdiction under this Act with respect to that matter relating to that company, as provided in section 10;

(b) with respect to any offence against this Act, the Court of a Magistrate of the First Class or, as the case may be, a Presidency Magistrate, having jurisdiction to try such offence;

(f) in clause (26),—

(a) for the words “any powers of management”, the words “substantial powers of management” shall be substituted;

(b) the following provisos shall be added at the end, namely:—

“Provided that the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within substantial powers of management:

Provided further that a managing director of a company shall exercise his powers subject to the superintendence, control and direction of its Board or directors;”;

(g) for clause (30), the following clause shall be substituted, namely:—

“(30) “officer” includes any director, managing agent, secretaries and treasurers, manager or secretary, and also includes—

(a) where the managing agent, the secretaries and treasurers or the secretary is or are a firm, any partner in the firm;

(b) where the managing agent or the secretaries and treasurers is or are a body corporate, any director or manager of the body corporate;

(c) where the secretary is a body corporate, any director, managing agent, secretaries and treasurers or manager of the body corporate;

but, save in sections 477, 478, 539, 543, 545, 621, 625 and 633 does not include an auditor;”;

(h) in clause (33), for the words, brackets and figures "sub-section (1) of section 549 and sub-section (3) of section 550" occurring at both the places, the words, brackets and figures "sub-section (3) of section 550, section 552 and sub-section (3) of section 555" shall be substituted;

(i) in clause (36), for the words "any prospectus," the words "any document described or issued as a prospectus and includes any" shall be substituted;

(j) for clause (45), the following clause shall be substituted, namely:—

'(45) "secretary" means any individual, firm or body corporate appointed to perform the duties which may be performed by a secretary under this Act and any other purely ministerial or administrative duties;'

**Amendment
of section 4.**

3. In section 4 of the principal Act,—

(a) in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

"(b) that other—

(i) where the first-mentioned company is an existing company in respect of which the holders of preference shares issued before the commencement of this Act have the same voting rights in all respects as the holders of equity shares, exercises or controls more than half of the total voting power of such company;

(ii) where the first-mentioned company is any other company, holds more than half in nominal value of its equity share capital; or";

(b) in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

"(c) that the directorship is held by an individual nominated by that other company or a subsidiary thereof.";

(c) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) A private company, being a subsidiary of a body corporate incorporated outside India, which, if incorporated in India, would be a public company within the meaning of this Act, shall be deemed for the purposes of this Act to be a subsidiary of a public company if the entire share capital in that private company is not held by that body corporate whether alone or together with one or more other bodies corporate incorporated outside India."

4. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 6.

“6. A person shall be deemed to be a relative of another if, and only if,—

Meaning of “relative”

(a) they are members of a Hindu undivided family; or

(b) they are husband and wife; or

(c) the one is related to the other in the manner indicated in Schedule IA.”.

5. In section 8 of the principal Act,—

Amendment of section 8.

(a) the words “not being a banking or an insurance company” shall be omitted;

(b) for the words “any production or manufacture”, the words “any establishment engaged in any production, processing or manufacture” shall be substituted.

6. In section 17 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 17.

“(4) The Court shall cause notice of the petition for confirmation of the alteration to be served on the Registrar who shall also be given a reasonable opportunity to appear before the Court and state his objections and suggestions, if any, with respect to the confirmation of the alteration.”.

7. In section 18 of the principal Act,—

Amendment of section 18.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A certified copy of the order of the Court made under sub-section (5) of section 17 confirming the alteration, together with a printed copy of the memorandum as altered, shall, within three months from the date of the order, be filed by the company with the Registrar who shall register the same and certify the registration under his hand within one month from the date of the filing of such documents.”;

(b) in sub-section (4), after the word “documents”, the words “or for the registration of the alteration” shall be inserted.

8. In section 19 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 19.

“(2) If the documents required to be filed with the Registrar under section 18 are not filed within the time allowed under that section, such alteration and the order of the Court made under

sub-section (5) of section 17 and all proceedings connected therewith, shall, at the expiry of such period, become void and inoperative:

Provided that the Court may, on sufficient cause shown, revive the order on application made within a further period of one month."

**Amendment
of section 25.**

9. In section 25 of the principal Act,—

(a) for sub-section (6), the following sub-section shall be substituted, namely:—

'(6) It shall not be necessary for a body to which a licence is so granted to use the word "Limited" or the words "Private Limited" as any part of its name and, unless its articles otherwise provide, such body shall, if the Central Government by general or special order so directs and to the extent specified in the direction, be exempt from such of the provisions of this Act as may be specified therein;'

(b) for sub-section (8), the following sub-section shall be substituted, namely:—

"(8) (a) A body in respect of which a licence under this section is in force shall not alter the provisions of its memorandum with respect to its objects except with the previous approval of the Central Government signified in writing.

(b) The Central Government may revoke the licence of such a body if it contravenes the provisions of clause (a).

(c) In according the approval referred to in clause (a), the Central Government may vary the licence by making it subject to such conditions and regulations as that Government thinks fit, in lieu of, or in addition to, the conditions and regulations, if any, to which the licence was formerly subject.

(d) Where the alteration proposed in the provisions of the memorandum of a body under this sub-section is with respect to the objects of the body so far as may be required to enable it to do any of the things specified in clauses (a) to (g) of sub-section (1) of section 17, the provisions of this sub-section shall be in addition to, and not in derogation of, the provisions of that section."

**Amendment
of section 29.**

10. In section 29 of the principal Act, the following proviso shall be added at the end, namely:—

"Provided that nothing in this section shall be deemed to prevent a company from including any additional matters in its

articles in so far as they are not inconsistent with the provisions contained in the Form in any of the Tables C, D and E, adopted by the company.”.

11. In section 31 of the principal Act,—

Amendment
of section 31.

(a) in sub-section (1), the following proviso shall be added at the end, namely:—

“Provided that no alteration made in the articles under this sub-section which has the effect of converting a public company into a private company, shall have effect unless such alteration has been approved by the Central Government.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where any alteration such as is referred to in the proviso to sub-section (1) has been approved by the Central Government, a printed copy of the articles as altered shall be filed by the company with the Registrar within one month of the date of receipt of the order of approval.”.

12. In section 38 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

Amendment
of section 38.

“Provided that this section shall not apply—

(a) in any case where the member agrees in writing either before or after a particular alteration is made, to be bound by the alteration; or

(b) in any case where the company is a club or the company is any other association and the alteration requires the member to pay recurring or periodical subscriptions or charges at a higher rate although he does not agree in writing to be bound by the alteration.”.

13. In section 41 of the principal Act, in sub-section (2), for the word “agrees”, the words “agrees in writing” shall be substituted.

Amendment
of section 41.

14. After section 43 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
43A.

‘43A. (1) Save as otherwise provided in this section, where not less than twenty-five per cent. of the paid-up share capital of a private company having a share capital, is held by one or more bodies corporate, the private company shall,—

Private company to become public company in certain cases.

(a) on and from the date on which the aforesaid percentage is first held by such body or bodies corporate, or

(b) where the aforesaid percentage has been first so held before the commencement of the Companies (Amendment) Act, 1960, on and from the expiry of the period of three months from the date of such commencement unless within that period the aforesaid percentage is reduced below twenty-five per cent. of the paid-up share capital of the private company,

become by virtue of this section a public company:

Provided that even after the private company has so become a public company, its articles of association may include provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 and the number of its members may be, or may at any time be reduced, below seven:

Provided further that in computing the aforesaid percentage, account shall not be taken of any share in the private company held by a banking company, if, but only if, the following conditions are satisfied in respect of such share, namely:—

(a) that the share—

(i) forms part of the subject-matter of a trust,

(ii) has not been set apart for the benefit of any body corporate, and

(iii) is held by the banking company either as a trustee of that trust or in its own name on behalf of a trustee of that trust; or

(b) that the share—

(i) forms part of the estate of a deceased person,

(ii) has not been bequeathed by the deceased person by his will to any body corporate, and

(iii) is held by the banking company either as an executor or administrator of the deceased person or in its own name on behalf of an executor or administrator of the deceased person;

and the Registrar may, for the purpose of satisfying himself that any share is held in the private company by a banking company as aforesaid, call for at any time from the banking company such books and papers as he considers necessary.

(2) Within three months from the date on which a private company becomes a public company by virtue of this section, the company shall inform the Registrar that it has

become a public company as aforesaid, and thereupon the Registrar shall delete the word "Private" before the word "Limited" in the name of the company upon the register and shall also make the necessary alterations in the certificate of incorporation issued to the company and in its memorandum of association.

(3) Sub-section (3) of section 23 shall apply to a change of name under sub-section (2) as it applies to a change of name under section 21.

(4) A private company which has become a public company by virtue of this section shall continue to be a public company until it has, with the approval of the Central Government and in accordance with the provisions of this Act, again become a private company.

(5) If a company makes default in complying with sub-section (2), the company and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees for every day during which the default continues.

(6) Nothing in this section shall apply—

(a) to a private company of which the entire paid-up share capital is held by another single private company or by one or more bodies corporate incorporated outside India; or

(b) to any other private company if, but only if, each of the following conditions is satisfied, namely:—

(i) that the body corporate or each of the bodies corporate holding shares in the private company is itself a private company (hereinafter in this section referred to as a shareholding company),

(ii) that no body corporate is the holder of any shares in any such shareholding company,

(iii) that the total number of shareholders of the shareholding company, or as the case may be of all the shareholding companies together with the individual shareholders [not including the persons referred to in sub-clause (b) of clause (iii) of sub-section (1) of section 3], if any, of the private company, does not exceed fifty.

(7) Every shareholding company shall, as soon as may be, inform the private company referred to in clause (b) of sub-section (6) about every change in the membership of the shareholding company taking place by a change in the number of its individual shareholders or by any body corporate becoming the holder of any of its shares.

(8) Every private company having a share capital shall, in addition to the certificate referred to in sub-section (2) of section 161, file with the Registrar along with the annual return a second certificate signed by both the signatories of the return, stating either—

(a) that since the date of the annual general meeting with reference to which the last return was submitted, or in the case of a first return, since the date of the incorporation of the private company, no body or bodies corporate has or have held twenty-five per cent. or more of its paid-up share capital, or

(b) that though since the aforesaid date one or more bodies corporate have held twenty-five per cent. or more of its paid-up share capital, the provisions of this section do not apply to it because it is a private company referred to in clause (a) or clause (b) of sub-section (6).'

Amendment
of section 49.

15. In section 49 of the principal Act,—

(a) in sub-section (1), after the words, brackets and figures "sub-sections (2) to (5)", the words "or any other law for the time being in force" shall be inserted;

(b) in sub-section (2), the words "expressly described as a nominee of the company" shall be omitted;

(c) in sub-section (5), after clause (a), the following clause shall be inserted, namely:—

"(aa) from depositing with, or transferring to, or holding in the name of, the State Bank of India or a Scheduled Bank, being the bankers of the company, shares or securities, in order to facilitate the transfer thereof:

Provided that if within a period of six months from the date on which the shares or securities are transferred by the company to, or are first held by the company in the name of, the State Bank of India or a Scheduled Bank as aforesaid, no transfer of such shares or securities takes place, the company shall, as soon as practicable after the

expiry of that period, have the shares or securities retransferred to it from the State Bank of India or the Scheduled Bank or, as the case may be, again hold the shares or securities in its own name; or”;

(d) in sub-section (6), for the words “with a Scheduled Bank”, the words “with the State Bank of India or a Scheduled Bank” shall be substituted.

16. In section 53 of the principal Act, in sub-section (2), in clause (b), the words “unless the contrary is proved,” shall be omitted. Amendment of section 53.

17. In section 60 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 60.

“(3) The Registrar shall not register a prospectus unless the requirements of sections 55, 56, 57 and 58 and sub-sections (1) and (2) of this section have been complied with and the prospectus is accompanied by the consent in writing of the person, if any, named therein as the auditor, legal adviser, attorney, solicitor, banker or broker of the company or intended company, to act in that capacity.”.

18. In section 62 of the principal Act, in the proviso to sub-section (1), the words, brackets and letter “clause (b) of” shall be omitted. Amendment of section 62.

19. In section 63 of the principal Act, in sub-section (2), in clause (b), the words, brackets and letter “clause (b) of” shall be omitted. Amendment of section 63.

20. In section 73 of the principal Act, in sub-section (1).— Amendment of section 73.

(a) for the words “three weeks” occurring at both the places, the words “four weeks” shall be substituted; and

(b) for the words “six weeks”, the words “seven weeks” shall be substituted.

21. In section 75 of the principal Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:— Amendment of section 75.

“(c) file with the Registrar—

(i) in the case of bonus shares, a return stating the number and nominal amount of such shares comprised in the allotment and the names, addresses and occupations of the allottees and a copy of the resolution authorising the issue of such shares;

(ii) in the case of issue of shares at a discount, a copy of the resolution passed by the company authorising such

issue together with a copy of the order of the Court sanctioning the issue and where the maximum rate of discount exceeds ten per cent., a copy of the order of the Central Government permitting the issue at the higher percentage.”.

Amendment of section 76. 22. In section 76 of the principal Act, in sub-section (2), for the words “any of its capital moneys”, the words “any of its moneys” shall be substituted.

Amendment of section 80. 23. In section 80 of the principal Act,—

(a) for the words “the capital redemption reserve fund” wherever they occur, the words “the capital redemption reserve account” shall be substituted;

(b) in sub-section (4), for the word and figures “section 601”, the word and figures “section 611” shall be substituted.

Amendment of section 81. 24. In section 81 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “Where at any time subsequent to the first allotment of shares in a company it is proposed to increase the subscribed capital of the company by the issue of new shares, then, subject to any directions to the contrary which may be given by the company in general meeting, and subject only to those directions—”, the following words shall be substituted, namely:—

“Where at any time after the expiry of two years from the formation of a company or at any time after the expiry of one year from the allotment of shares in that company made for the first time after its formation, whichever is earlier, it is proposed to increase the subscribed capital of the company by allotment of further shares, then,—”,

(ii) in clause (a), for the word “new”, the word “further” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), the further shares aforesaid may be offered to any persons [whether or not those persons include the persons

referred to in clause (a) of sub-section (1)] in any manner whatsoever—

(a) if a special resolution to that effect is passed by the company in general meeting, or

(b) where no such special resolution is passed, if the votes cast (whether on a show of hands, or on a poll, as the case may be) in favour of the proposal contained in the resolution moved in that general meeting (including the casting vote, if any, of the Chairman) by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy, exceed the votes, if any, cast against the proposal by members so entitled and voting and the Central Government is satisfied, on an application made by the Board of directors in this behalf, that the proposal is most beneficial to the company.”;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Nothing in this section shall apply—

(a) to a private company; or

(b) to the increase of the subscribed capital of a public company caused by the exercise of an option attached to debentures issued or loans raised by the company—

(i) to convert such debentures or loans into shares in the company, or

(ii) to subscribe for shares in the company:

Provided that the terms of issue of such debentures or the terms of such loans include a term providing for such option and such term—

(a) has been approved by a special resolution passed by the company in general meeting before the issue of the debentures or the raising of the loans; and also

(b) either has been approved by the Central Government before the issue of the debentures or the raising of the loans, or is in conformity with the rules, if any, made by that Government in this behalf.”.

25. Section 84 of the principal Act shall be re-numbered as sub-section (1) of that section and after that sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment
of section 84.

“(2) A certificate may be renewed or a duplicate of a certificate may be issued if such certificate—

(a) is proved to have been lost or destroyed, or

(b) having been defaced or mutilated or torn is surrendered to the company.

(3) If a company with intent to defraud renews a certificate or issues a duplicate thereof, the company shall be punishable with fine which may extend to ten thousand rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

(4) Notwithstanding anything contained in the articles of association of a company, the manner of issue or renewal of a certificate or issue of a duplicate thereof, the form of a certificate (original or renewed) or of a duplicate thereof, the particulars to be entered in the register of members or in the register of renewed or duplicate certificates, the form of such registers, the fee on payment of which, the terms and conditions, if any (including terms and conditions as to evidence and indemnity and the payment of out-of-pocket expenses incurred by a company in investigating evidence) on which a certificate may be renewed or a duplicate thereof may be issued, shall be such as may be prescribed."

Substitution
of new section
for section
106.

26. For section 106 of the principal Act, the following section shall be substituted, namely:—

Alteration
of rights of
holders of
special classes
of shares.

"106. Where the share capital of a company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or with the sanction of a special resolution passed at a separate meeting of the holders of the issued shares of that class—

(a) if provision with respect to such variation is contained in the memorandum or articles of the company, or

(b) in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class."

Amendment
of section
111.

27. In section 111 of the principal Act,—

(a) in sub-section (2), for the words "If, in pursuance of any such power, a company refuses", the words "If a company refuses, whether in pursuance of any power under its articles or otherwise," shall be substituted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Every appeal under sub-section (3) shall be made by a petition in writing and shall be accompanied by such fee not exceeding fifty rupees as may be prescribed by the Central Government.”;

(c) in sub-section (5), for the word “forthwith”, the words “within ten days of the receipt of the order” shall be substituted;

(d) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Before making an order under sub-section (5) on an appeal against any refusal of the company to register any transfer or transmission, the Central Government may require the company to disclose to it the reasons for such refusal, and on the failure or refusal of the company to disclose such reasons, that Government may, notwithstanding anything contained in the articles of the company, presume that the disclosure, if made, would be unfavourable to the company.”;

(e) after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) If default is made in giving effect to the order of the Central Government within the period specified in sub-section (5) or to a direction of that Government given under the proviso to sub-section (8), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day after the first during which the default continues.”.

28. In section 113 of the principal Act, in sub-section (1), for the words “three months after the application”, the words “two months after the application” shall be substituted. Amendment
of section
113.

29. In section 125 of the principal Act, in sub-section (1), the following proviso shall be added at the end, namely:— Amendment
of section
125.

“Provided that the Registrar may allow the particulars and instrument or copy as aforesaid to be filed within seven days next following the expiry of the said period of twenty-one days if the company satisfies the Registrar that it had sufficient cause for not filing the particulars and instrument or copy within that period.”.

Amendment
of section
138.

30. In section 138 of the principal Act,—

(a) in sub-section (1), for the words “in whole or in part”, the words “in full” shall be substituted;

(b) in sub-section (3), the words “in whole or in part, as the case may be,” shall be omitted.

Amendment
of section
141.

31. In section 141 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Court, on being satisfied—

(a) that the omission to file with the Registrar the particulars of any charge created by a company or of any charge subject to which any property has been acquired by the company or of any modification of any such charge or of any issue of debentures of a series, or that the omission to register any charge within the time required by this Part, or that the omission to give intimation to the Registrar of the payment or satisfaction of a charge, within the time required by this Part, or that the omission or mis-statement of any particular with respect to any such charge, modification or issue of debentures of a series or with respect to any memorandum of satisfaction or other entry made in pursuance of section 138 or 139, was accidental or due to inadvertence or to some other sufficient cause or is not of a nature to prejudice the position of creditors or shareholders of the company; or

(b) that on other grounds it is just and equitable to grant relief;

may, on the application of the company or any person interested and on such terms and conditions as seem to the Court just and expedient, direct that the time for the filing of the particulars or for the registration of the charge or for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or mis-statement shall be rectified.”.

Amendment
of section
142.

32. In section 142 of the principal Act, in sub-section (1), in clause (b), the words “in whole or in part,” shall be omitted.

Amendment
of section
145.

33. In section 145 of the principal Act, for the words “any charge created before the commencement of this Act”, the words “any charge created before, and remaining unsatisfied at, the commencement of this Act,” shall be substituted.

34. In section 147 of the principal Act,—

Amendment
of section
147.

(a) in sub-section (1),—

(1) in clause (a), after the words “its name”, the words “and the address of its registered office” shall be inserted;

(2) in clause (c),—

(i) after the words “its name”, the words “and the address of its registered office” shall be inserted;

(ii) the word “, advertisements” shall be omitted;

(iii) for the words “and in all bills of exchange”, the words “and also have its name so mentioned in all bills of exchange” shall be substituted;

(b) in sub-section (2), after the words “its name” wherever they occur, the words “and the address of its registered office” shall be inserted;

(c) in sub-section (4), in clause (b),—

(i) the word “, advertisement” shall be omitted;

(ii) for the words “its name is”, the words “its name and the address of its registered office are” shall be substituted.

35. In section 149 of the principal Act, sub-section (8) shall be omitted.

Amendment
of section
149.

36. In section 155 of the principal Act,—

Amendment
of section
155.

(a) in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

“(a) the name of any person—

(i) is without sufficient cause, entered in the register of members of a company, or

(ii) after having been entered in the register, is, without sufficient cause, omitted therefrom; or”;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The provisions of sub-sections (1) to (4) shall apply in relation to the rectification of the register of debenture holders as they apply in relation to the rectification of the register of members.”.

37. In section 156 of the principal Act,—

Amendment
of section
156.

(a) after the words “a list of its members”, the words “and a list of its debenture holders” shall be inserted;

(b) after the words "to be filed", the words "by the company" shall be inserted;

(c) the following *Explanation* shall be inserted, namely:—

"*Explanation*.—In computing the period of fourteen days prescribed under this section, the time taken in drawing up the order of the Court and in obtaining a copy of that order shall be excluded."

Amendment
of section
159.

38. In section 159 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (g), for the words "and managers", the words "managers and secretaries" shall be substituted;

(ii) the following proviso and *Explanation* shall be added at the end, namely:—

"Provided that if any of the two immediately preceding returns has given as at the date of the annual general meeting with reference to which it was submitted, the full particulars required as to past and present members and the shares held and transferred by them, the return in question may contain only such of the particulars as relate to persons ceasing to be or becoming members since that date and to shares transferred since that date or to changes as compared with that date in the number of shares held by a member.

Explanation.—Any reference in this section or in section 160 or 161 or in any other section or in Schedule V to the day on which an annual general meeting is held or to the date of the annual general meeting shall, where the annual general meeting for any year has not been held, be construed as a reference to the latest day on or before which that meeting should have been held in accordance with the provisions of this Act.";

(b) in sub-section (2), after the words "as circumstances admit", the following words shall be inserted, namely:—

"and where the return is filed even though the annual general meeting has not been held on or before the latest day by which it should have been held in accordance with the provisions of this Act, the company shall file with the return a statement specifying the reasons for not holding the annual general meeting."

Amendment
of section
160.

39. In section 160 of the principal Act, in sub-section (1),—

(a) after clause (a), the following clause shall be inserted, namely:—

“(aa) the names of members and the respective dates on which they became members and the names of persons who ceased to be members since the date of the annual general meeting of the immediately preceding year, and the dates on which they so ceased;”;

(b) in clause (b), for the words “and its manager”, the words “its manager and its secretary” shall be substituted.

40. In section 161 of the principal Act, in sub-section (2), in clause (a), the word “and” at the end of the clause shall be omitted and after that clause, the following clause shall be inserted, namely:—

Amendment
of section
161.

“(aa) that since the date of the last annual return the transfer of all shares and debentures and the issue of all further certificates of shares and debentures have been appropriately recorded in the books maintained for the purpose; and”.

41. In section 163 of the principal Act,—

(a) in sub-section (1), the following proviso shall be added at the end, namely:—

Amendment
of section
163.

“Provided that such registers, indexes, returns and copies of certificates and documents or any or more of them may, instead of being kept at the registered office of the company, be kept at any other place within the city, town or village in which the registered office is situate, if—

(i) such other place has been approved for this purpose by a special resolution passed by the company in general meeting,

(ii) the purport of the proposed special resolution has been advertised in advance for three consecutive days in at least two newspapers circulating in the neighbourhood of the registered office of the company, and

(iii) the Registrar has been given in advance a copy of the proposed special resolution.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), the Central Government may make rules for the preservation and for the disposal, whether by destruction or otherwise, of the registers, indexes, returns and copies of certificates and other documents referred to in sub-section (1).”.

42. In section 165 of the principal Act, in sub-section (4), the words “on capital account” shall be omitted.

Amendment
of section
165.

43. In section 166 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section
166.

“(1) Every company shall in each year hold in addition to any other meetings a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Provided that a company may hold its first annual general meeting within a period of not more than eighteen months from the date of its incorporation; and if such general meeting is held within that period, it shall not be necessary for the company to hold any annual general meeting in the year of its incorporation or in the following year:

Provided further that the Registrar may, for any special reason, extend the time within which any annual general meeting (not being the first annual general meeting) shall be held, by a period not exceeding three months.”;

(b) in sub-section (2),—

(i) the words “; and the notices calling the meeting shall specify it as the annual general meeting” shall be omitted;

(ii) the following provisos shall be added at the end, namely:—

“Provided that the Central Government may exempt any class of companies from the provisions of this sub-section subject to such conditions as it may impose:

Provided further that—

(a) a public company or a private company which is a subsidiary of a public company, may by its articles fix the time for its annual general meetings and may also by a resolution passed in one annual general meeting fix the time for its subsequent annual general meetings; and

(b) a private company which is not a subsidiary of a public company, may in like manner and also by a resolution agreed to by all the members thereof, fix the times as well as the place for its annual general meeting.”.

Amendment
of section
168.

44. In section 168 of the principal Act, the following words shall be added at the end, namely:—

“and in the case of a continuing default, with a further fine which may extend to two hundred and fifty rupees for every day after the first during which such default continues.”.

45. In section 172 of the principal Act, in sub-section (2), the following proviso shall be added at the end, namely:—

Amendment of section 172.

“Provided that where the notice of a meeting is given by advertising the same in a newspaper circulating in the neighbourhood of the registered office of the company under sub-section (3) of section 53, the statement of material facts referred to in section 173 need not be annexed to the notice as required by that section but it shall be mentioned in the advertisement that the statement has been forwarded to the members of the company.”

46. In section 173 of the principal Act, in sub-section (2),—

Amendment of section 173.

(a) for the words “the nature and extent of the interest”, the words “the nature of the concern or interest” shall be substituted;

(b) the following proviso shall be added at the end, namely:—

“Provided that where any item of special business as aforesaid to be transacted at a meeting of the company relates to, or affects, any other company, the extent of shareholding interest in that other company of every director, the managing agent, if any, the secretaries and treasurers, if any, and the manager, if any, of the first-mentioned company shall also be set out in the statement if the extent of such shareholding interest is not less than twenty per cent. of the paid-up share capital of that other company.”

47. In section 176 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 176

“(3) Any provision contained in the articles of a public company or of a private company which is a subsidiary of a public company, which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.”

48. In section 187 of the principal Act, in sub-section (2), for the words “a member”, the words “an individual member” shall be substituted.

Amendment of section 187

49. After section 187 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 187A.

“187A. (1) The President of India or the Governor of a State, if he is a member of a company, may appoint such person

Representation of the President and

Governors in meetings of companies of which they are members.

as he thinks fit to act as his representative at any meeting of the company or at any meeting of any class of members of the company.

(2) A person appointed to act as aforesaid shall, for the purposes of this Act, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers (including the right to vote by proxy) as the President or, as the case may be, the Governor could exercise as a member of the company.”.

Amendment of section 190

50. In section 190 of the principal Act,—

(a) in sub-section (1), for the words “twenty-eight days”, the words “fourteen days” shall be substituted;

(b) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

“(2) The company shall, immediately after the notice of the intention to move any such resolution has been received by it, give its members notice of the resolution in the same manner as it gives notice of the meeting, or if that is not practicable, shall give them notice thereof, either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the articles, not less than seven days before the meeting.”.

Amendment of section 192

51. In section 192 of the principal Act,—

(a) in sub-section (1), after the words “every resolution”, the brackets, words and figures “(together with a copy of the statement of material facts annexed under section 173 to the notice of the meeting in which such resolution has been passed)” shall be inserted;

(b) in sub-section (2), for the words “a copy of every resolution or agreement”, the words, brackets and figure “a copy of every resolution referred to in sub-section (1) which has the effect of altering the articles and a copy of every agreement referred to in that sub-section” shall be substituted;

(c) in sub-section (3), for the words “such resolution or agreement”, the words, brackets and figure “resolution or agreement referred to in sub-section (1)” shall be substituted;

(d) in sub-section (4), the word "and" at the end of clause (e) shall be omitted and after that clause, the following clause shall be inserted, namely:—

"(ee) resolutions passed by a company--

(i) according consent to the exercise by its Board of directors of any of the powers under clause (a), clause (d) and clause (e) of sub-section (1) of section 293;

(ii) approving the appointment of sole selling agents under section 294; and".

52. In section 193 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment
of section
193.

"(1) Every company shall cause minutes of all proceedings of every general meeting and of all proceedings of every meeting of its Board of directors or of every committee of the Board, to be kept by making within fourteen days of the conclusion of every such meeting concerned, entries thereof in books kept for that purpose with their pages consecutively numbered.

(1A) Each page of every such book shall be initialled or signed and the last page of the record of proceedings of each meeting in such books shall be dated and signed—

(a) in the case of minutes of proceedings of a meeting of the Board or of a committee thereof, by the chairman of the said meeting or the chairman of the next succeeding meeting;

(b) in the case of minutes of proceedings of a general meeting, by the chairman of the same meeting within the aforesaid period of fourteen days or in the event of the death or inability of that chairman within that period, by a director duly authorised by the Board for the purpose.

(1B) In no case the minutes of proceedings of a meeting shall be attached to any such book as aforesaid by pasting or otherwise."

53. For section 194 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 194.

"194. Minutes of meetings kept in accordance with the provisions of section 193 shall be evidence of the proceedings recorded therein."

Minutes to
be evidence

Amendment
of section
195.

54. In section 195 of the principal Act, for the words and figures "have been made and signed in accordance with the provisions of sections 193 and 194", the words and figures "have been kept in accordance with the provisions of section 193" shall be substituted.

Insertion of
new heading
and new
section 197A.

55. After section 197 of the principal Act, the following heading and section shall be inserted, namely:—

"Prohibition of simultaneous appointment of different categories of managerial personnel"

Company not
to appoint
or employ
certain
different
categories of
managerial
personnel at
the same
time.

197A. Notwithstanding anything contained in this Act or any other law or any agreement or instrument, no company shall, after the commencement of the Companies (Amendment) Act, 1960, appoint or employ at the same time, or after the expiry of six months from such commencement, continue the appointment or employment at the same time, of more than one of the following categories of managerial personnel, namely:—

- (a) managing director,
- (b) managing agent,
- (c) secretaries and treasurers, and
- (d) manager."

Substitution
of new sec-
tion for sec-
tion 198.

Overall
maximum
managerial
remunera-
tion and
managerial
remuneration
in case
of absence or
inadequacy
of profits.

56. For section 198 of the principal Act, the following section shall be substituted, namely:—

"198. (1) The total managerial remuneration payable by a public company or a private company which is a subsidiary of a public company, to its directors and its managing agent, secretaries and treasurers or manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in sections 349, 350 and 351, except that the remuneration of the directors shall not be deducted from the gross profits:

Provided that nothing in this section shall affect the operation of sections 352 to 354 and 356 to 360.

(2) The percentage aforesaid shall be exclusive of any fees payable to directors under sub-section (2) of section 309.

(3) Within the limits of the maximum remuneration specified in sub-section (1), a company may pay a monthly remuneration to its managing or whole-time director in accordance with the provisions of section 309 or to its manager in accordance with the provisions of section 387.

(4) Notwithstanding anything contained in sub-sections (1) to (3), if in any financial year, a company has no profits or its

profits are inadequate, the company may, subject to the approval of the Central Government, unless such approval has been obtained under any other provision of this Act, pay to its directors (including any managing or whole-time director), its managing agent, secretaries and treasurers, or manager or if there are two or more of them holding office in the company, to all of them together by way of minimum remuneration, such sum not exceeding fifty thousand rupees per annum [exclusive of any fees payable to directors under sub-section (2) of section 309] as it considers reasonable:

Provided that where a monthly payment is being made or is proposed to be made to any managing or whole-time director or the manager or to any one or more of them and the Central Government is satisfied that for the efficient conduct of the business of the company the minimum remuneration of fifty thousand rupees per annum is or will be insufficient, the Central Government may by order sanction an increase in the minimum remuneration to such sum, for such period and subject to such conditions, if any, as may be specified in the order.

Explanation.—For the purposes of this section and sections 309, 310, 311, 348, 352, 381 and 387, “remuneration” shall include,—

(a) any expenditure incurred by the company in providing any rent-free accommodation, or any other benefit or amenity in respect of accommodation free of charge, to any of the persons specified in sub-section (1);

(b) any expenditure incurred by the company in providing any other benefit or amenity free of charge or at a concessional rate to any of the persons aforesaid;

(c) any expenditure incurred by the company in respect of any obligation or service which, but for such expenditure by the company, would have been incurred by any of the persons aforesaid; and

(d) any expenditure incurred by the company to effect any insurance on the life of, or to provide any pension, annuity or gratuity for, any of the persons aforesaid or his spouse or child.

57. In section 204 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Save as provided in sub-section (2), no company shall, after the commencement of this Act, appoint or employ

Amendment
of section
204.

any firm or body corporate to or in any office or place of profit under the company, other than the office of managing agent, secretaries and treasurers or trustee for the holders of debentures of the company, for a term exceeding five years at a time:

Provided that the initial appointment or employment of a firm or body corporate to or in any office or place of profit as aforesaid may, with the approval of the Central Government, be made for a term not exceeding ten years.”;

(b) in sub-section (5), for the words “obtains anything”, the words “obtains from the company anything” shall be substituted.

Substitution
of new sec-
tion for sec-
tion 205.

58. For section 205 of the principal Act, the following section shall be substituted, namely:—

Dividend to
be paid only
out of
profit.

‘205. (1) No dividend shall be declared or paid by a company for any financial year except out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2) or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with those provisions and remaining undistributed or out of both or out of moneys provided by the Central Government or a State Government for the payment of dividend in pursuance of a guarantee given by that Government:

Provided that—

(a) if the company has not provided for depreciation for any previous financial year or years which falls or fall after the commencement of the Companies (Amendment) Act, 1960, it shall, before declaring or paying dividend for any financial year provide for such depreciation out of the profits of that financial year or out of the profits of any other previous financial year or years;

(b) if the company has incurred any loss in any previous financial year or years, which falls or fall after the commencement of the Companies (Amendment) Act, 1960, then, the amount of the loss or an amount which is equal to the amount provided for depreciation for that year or those years whichever is less, shall be set off against the profits of the company for the year for which dividend is proposed to be declared or paid or

against the profits of the company for any previous financial year or years, arrived at in both cases after providing for depreciation in accordance with the provisions of sub-section (2) or against both;

(c) the Central Government may, if it thinks necessary so to do in the public interest, allow any company to declare or pay dividend for any financial year out of the profits of the company for that year or any previous financial year or years without providing for depreciation:

Provided further that it shall not be necessary for a company to provide for depreciation as aforesaid where dividend for any financial year is declared or paid out of the profits of any previous financial year or years which falls or fall before the commencement of the Companies (Amendment) Act, 1960.

(2) For the purpose of sub-section (1), depreciation shall be provided either—

(a) to the extent specified in section 350; or

(b) in respect of each item of depreciable asset, for such an amount as is arrived at by dividing ninety-five per cent. of the original cost thereof to the company by the specified period in respect of such asset; or

(c) on any other basis approved by the Central Government which has the effect of writing off by way of depreciation ninety-five per cent. of the original cost to the company of each such depreciable asset on the expiry of the specified period; or

(d) as regards any other depreciable asset for which no rate of depreciation has been laid down by the Indian Income-Tax Act, 1922 or the rules made thereunder, on such basis as may be approved by the Central Government by any general order published in the Official Gazette or by any special order in any particular case;

Provided that where depreciation is provided for in the manner laid down in clause (b) or clause (c), then, in the event of the depreciable asset being sold, discarded, demolished or destroyed the written down value thereof at the end of the financial year in which the asset is sold, discarded, demolished or destroyed, shall be written off in accordance with the proviso to section 350.

(3) No dividend shall be payable except in cash:

Provided that nothing in this sub-section shall be deemed to prohibit the capitalization of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company.

(4) Nothing in this section shall be deemed to affect in any manner the operation of section 208.

(5) For the purposes of this section—

(a) "specified period" in respect of any depreciable asset shall mean the number of years at the end of which at least ninety-five per cent. of the original cost of that asset to the company will have been provided for by way of depreciation if depreciation were to be calculated in accordance with the provisions of section 350;

(b) any dividend payable in cash may be paid by cheque or warrant sent through the post directed to the registered address of the shareholder entitled to the payment of the dividend or in the case of joint shareholders, to the registered address of that one of the joint shareholders which is first named on the register of members, or to such person and to such address as the shareholder or the joint shareholders may in writing direct.'

Amendment
of section
207.

59. In section 207 of the principal Act, for the words "three months", the words "forty-two days" shall be substituted.

Amendment
of section
209.

60. In section 209 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every company shall keep at its registered office proper books of account with respect to—

(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure take place;

(b) all sales and purchases of goods by the company; and

(c) the assets and liabilities of the company:

Provided that all or any of the books of account aforesaid may be kept at such other place in India as the Board of directors may decide and when the Board of directors so

decides, the company shall, within seven days of the decision, file with the Registrar a notice in writing giving the full address of that other place.”;

(b) in sub-section (4), the following proviso shall be inserted, namely:—

“Provided that the books of account shall also be open to inspection by the Registrar or by any officer of Government authorised by the Central Government in this behalf if in the opinion of the Registrar or such officer sufficient cause exists for the inspection of the books of account.”;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) The books of account of every company relating to a period of not less than eight years immediately preceding the current year shall be preserved in good order:

Provided that in the case of a company incorporated less than eight years before the current year, the books of account for the entire period preceding the current year shall be so preserved.”;

(d) in sub-section (5),—

(i) for the words “fine which may extend to one thousand rupees”, the words “imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both” shall be substituted;

(ii) in the proviso, the words “that he had reasonable ground to believe, and did believe” shall be omitted;

(iii) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that no person shall be sentenced to imprisonment for any such offence unless it was committed wilfully.”;

(e) in sub-section (6),—

(i) in clause (a), for the words “or secretaries and treasurers” occurring at both the places, the words “secretaries and treasurers or managing director or manager” shall be substituted;

(ii) in clause (d), for the words “secretaries and treasurers, every director of the company”, the words “secretaries and treasurers nor managing director nor manager, every director of the company” shall be substituted;

(f) in sub-section (7),—

(i) after the words “secretaries and treasurers”, the words “managing director, manager” shall be inserted;

(ii) for the words “fine which may extend to one thousand rupees”, the words “imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both” shall be substituted.

61. In section 210 of the principal Act,—

(a) in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

“(b) in the case of any subsequent annual general meeting of the company, to the period beginning with the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting by more than six months, or in cases where an extension of time has been granted for holding the meeting under the second proviso to sub-section (1) of section 166, by more than six months and the extension so granted.”;

(b) in sub-section (5), in the first proviso, the words “that he had reasonable ground to believe, and did believe,” shall be omitted.

62. In section 211 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every balance-sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall, subject to the provisions of this section, be in the form set out in Part I of Schedule VI, or as near thereto as circumstances admit or in such other form as may be approved by the Central Government either generally or in any particular case; and in preparing the balance-sheet due regard shall be had, as far as may be, to the general instructions for preparation of balance-sheet under the heading “Notes” at the end of that Part:

Provided that nothing contained in this sub-section shall apply to any insurance or banking company or any company engaged in the generation or supply of electricity or to any other class of company for which a form of balance-sheet

Amendment
of section
210.

Amendment
of section
211.

has been specified in or under the Act governing such class of company.';

(b) in sub-section (2), in the proviso, after the words "banking company", the words "or any company engaged in the generation or supply of electricity" shall be inserted;

(c) in sub-section (3), for the words "national interest", the words "public interest" shall be substituted;

(d) in sub-section (5), in clause (iii), for the words and figures "the Electricity (Supply) Act, 1948", the words, figures and brackets "both the Indian Electricity Act, 1910, and the Electricity (Supply) Act, 1948" shall be substituted;

(e) in sub-section (7), in the first proviso, the words "that he had reasonable ground to believe and did believe" shall be omitted;

(f) in sub-section (8), after the words "secretaries and treasurers," the words "managing director or manager," shall be inserted.

63. In section 212 of the principal Act,—

Amendment
of section
212.

(a) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) The balance-sheet referred to in clause (a) of sub-section (1) shall be made out in accordance with the requirements of this Act,—

(i) as at the end of the financial year of the subsidiary, where such financial year coincides with the financial year of the holding company;

(ii) as at the end of the financial year of the subsidiary last before that of the holding company where the financial year of the subsidiary does not coincide with that of the holding company;"

(ii) in clause (c), for the words "The financial year aforesaid", the words "Where the financial year of the subsidiary does not coincide with that of the holding company, the financial year aforesaid" shall be substituted;

(b) in sub-section (9), in the first proviso, the words "that he had reasonable ground to believe, and did believe," shall be omitted;

54 of 1948
9 of 1910.
54 of 1948.

(c) in sub-section (10), after the words "secretaries and treasurers," the words "managing director, manager," shall be inserted.

Amendment
of section
216.

64. In section 216 of the principal Act, after the words "auditors' report", the brackets and words "(including the auditors' separate, special or supplementary report, if any)" shall be inserted.

Amendment
of section
217.

65. In section 217 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), the word "either" and the words "or in a subsequent balance-sheet; and" shall be omitted;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(d) material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the balance-sheet relates and the date of the report.";

(b) in sub-section (5), in the second proviso, the words "that he had reasonable ground to believe, and did believe," shall be omitted.

Amendment
of section
220.

66. In section 220 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

(1) the words "in the case of a public company" shall be omitted;

(2) the following proviso shall be added at the end, namely:—

"Provided that in the case of a private company, copies of the balance-sheet and copies of the profit and loss account shall be filed with the Registrar separately.";

(ii) clause (b) shall be omitted;

(iii) the following proviso shall be added at the end, namely:—

“Provided further that,—

(i) in the case of a private company which is not a subsidiary of a public company, or

(ii) in the case of a private company of which the entire paid-up share capital is held by one or more bodies corporate incorporated outside India, or

(iii) in the case of a company which becomes a public company by virtue of section 43A, if the Central Government directs that it is not in the public interest that any person other than a member of the company shall be entitled to inspect, or obtain copies of, the profit and loss account of the company,

no person other than a member of the company concerned shall be entitled to inspect, or obtain copies of, the profit and loss account of that company under section 610.”;

(b) in sub-section (2), the words “public or private” shall be omitted.

67. In section 224 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment
of section
224.

“(1) Every company shall, at each annual general meeting, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting and shall, within seven days of the appointment, give intimation thereof to every auditor so appointed, unless he is a retiring auditor.

(1A) Every auditor appointed under sub-section (1), unless he is a retiring auditor, shall within thirty days of the receipt from the company of the intimation of his appointment, inform the Registrar in writing that he has accepted, or refused to accept, the appointment.”.

68. In section 226 of the principal Act, in sub-section (2), in clause (a), for the words “those territories”, the word “India” shall be substituted.

Amendment
of section
226.

Amendment
of section
227.

69. In section 227 of the principal Act,—

(a) in sub-section (3), after clause (b), the following clause shall be inserted, namely:—

“(bb) whether the report on the accounts of any branch office audited under section 228 by a person other than the company's auditor has been forwarded to him as required by clause (c) of sub-section (3) of that section and how he has dealt with the same in preparing the auditor's report;”;

(b) in sub-section (4), after the brackets and letter “(b)”, the brackets and letters “(bb)” shall be inserted;

(c) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The accounts of a company shall not be deemed as not having been, and the auditor's report shall not state that those accounts have not been, properly drawn up on the ground merely that the company has not disclosed certain matters if—

(a) those matters are such as the company is not required to disclose by virtue of any provisions contained in this or any other Act, and

(b) those provisions are specified in the balance-sheet and profit and loss account of the company.”.

Amendment
of section
228.

70. In section 228 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “unless the company in general meeting decides otherwise, be audited”, the words and figures “be audited by the company's auditor appointed under section 224 or” shall be substituted;

(ii) for the words “by a person qualified as aforesaid”, the words “by the company's auditor or a person qualified as aforesaid” shall be substituted;

(b) in sub-section (2), for the words “not so audited”, the words “audited by a person other than the company's auditor” shall be substituted;

(c) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) (a) Where a company in general meeting decides to have the accounts of a branch office audited otherwise

than by the company's auditor, the company in that meeting shall for the audit of those accounts appoint a person qualified for appointment as auditor of the company under section 226, or where the branch office is situate in a country outside India, a person who is either qualified as aforesaid or an accountant duly qualified to act as an auditor of the accounts of the branch office in accordance with the laws of that country, or authorise the Board of directors to appoint such a person in consultation with the company's auditor;

(b) the person so appointed (hereafter in this section referred to as the branch auditor) shall have the same powers and duties in respect of audit of the accounts of the branch office as the company's auditor has in respect of the same;

(c) the branch auditor shall prepare a report on the accounts of the branch office examined by him and forward the same to the company's auditor who shall in preparing the auditor's report, deal with the same in such manner as he considers necessary;

(d) the branch auditor shall receive such remuneration and shall hold his appointment subject to such terms and conditions as may be fixed either by the company in general meeting or by the Board of directors if so authorised by the company in general meeting.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the Central Government may, by rules made in this behalf, exempt any branch office from the provisions of this section to the extent specified in the rules and in making such rules the Central Government shall have regard to all or any of the following matters, namely:—

(a) the arrangement made by the company for the audit of accounts of the branch office by a person otherwise qualified for appointment as branch auditor even though such person may be an officer or employee of the company;

(b) the nature and quantum of activity carried on at the branch office during a period of three years immediately preceding the date on which the branch office is exempted from the provisions of this section;

(c) the availability at a reasonable cost of a branch auditor for the audit of accounts of the branch office;

(d) any other matter which in the opinion of the Central Government justifies the grant of exemption to the branch office from the provisions of this section.”.

Insertion of
new section
233A.

71. After section 233 of the principal Act, the following section shall be inserted, namely:—

Power of
Central
Government
to direct
special audit
in certain
cases.

“233A. (1) Where the Central Government is of the opinion—

(a) that the affairs of any company are not being managed in accordance with sound business principles or prudent commercial practices; or

(b) that any company is being managed in a manner likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains; or

(c) that the financial position of any company is such as to endanger its solvency;

the Central Government may at any time by order direct that a special audit of the company's accounts for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint either a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949, (whether or not such chartered accountant is a chartered accountant in practice within the meaning of that Act) or the company's auditor himself to conduct such special audit.

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2) The chartered accountant or the company's auditor appointed under sub-section (1) to conduct a special audit as aforesaid is hereafter in this section referred to as the special auditor.

(3) The special auditor shall have the same powers and duties in relation to the special audit as an auditor of a company has under section 227:

Provided that the special auditor shall, instead of making his report to the members of the company, make the same to the Central Government.

(4) The report of the special auditor shall, as far as may be, include all the matters required to be included in an auditor's report under section 227 and, if the Central Government so directs, shall also include a statement on any other matter which may be referred to him by that Government.

(5) The Central Government may by order direct any person specified in the order to furnish to the special auditor within such time as may be specified therein such information or additional information as may be required by the special auditor in connection with the special audit; and on failure to comply with such order such person shall be punishable with fine which may extend to five hundred rupees.

(6) On receipt of the report of the special auditor, the Central Government may take such action on the report as it considers necessary in accordance with the provisions of this Act or any other law for the time being in force:

Provided that if the Central Government does not take any action on the report within four months from the date of its receipt, that Government shall send to the company either a copy of, or relevant extract from, the report with its comments thereon and require the company either to circulate that copy or those extracts to the members or to have such copy or extracts read before the company at its next general meeting.

(7) The expenses of, and incidental to, any special audit under this section (including the remuneration of the special auditor) shall be determined by the Central Government (which determination shall be final) and paid by the company and in default of such payment shall be recoverable from the company as an arrear of land revenue.”.

72. In section 234 of the principal Act,—

Amendment
of section
234.

(a) in sub-section (1), for the words “in order that such document may afford full particulars of the matter to which it”, the words “with respect to any matter to which such document” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) If no information or explanation is furnished within the time specified or if the information or explanation furnished is, in the opinion of the Registrar, inadequate, the Registrar may by another written order call on the company to produce before him for his inspection such books and papers as he considers necessary within such time as he may specify in the order; and it shall be the duty of the company, and of all persons who are officers of the company, to produce such books and papers.”;

(c) in sub-section (4),—

(i) after the words “any such information or explanation”, the words “or if the company or any such person as is referred to in sub-section (3A) refuses or neglects to produce any such books and papers” shall be inserted;

(ii) for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) the company and each such person shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence, with an additional fine which may extend to fifty rupees for every day after the first during which the offence continues; and

(b) the Court trying the offence may, on the application of the Registrar and after notice to the company, make an order on the company for production before the Registrar of such books and papers as in the opinion of the Court, may reasonably be required by the Registrar for the purpose referred to in sub-section (1).”;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) On receipt of any writing containing the information or explanation referred to in sub-section (1), or of any book or paper produced whether in pursuance of an order of the Registrar under sub-section (3A) or of an order of the Court under sub-section (4), the Registrar may annex that writing, book or paper, or where that book or paper is required by the company, any copy or extract thereof, to the document referred to in sub-section (1); and any writing or any book or paper or copy or extract thereof so annexed shall be subject to the like provisions as to inspection, the taking of extracts and the furnishing of copies, as that document is subject.”;

(e) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) If such information or explanation is not furnished within the specified time or if after perusal of such information or explanation or of the books and papers produced

whether in pursuance of an order of the Registrar under sub-section (3A) or of an order of the Court under sub-section (4), the Registrar is of opinion that the document referred to in sub-section (1), together with such information or explanation or such books and papers discloses an unsatisfactory state of affairs or does not disclose a full and fair statement of any matter to which the document purports to relate, the Registrar shall report in writing the circumstances of the case to the Central Government.”;

(f) in sub-section (7), after the brackets and figure “(3)” the brackets, figure and letter “(3A)” shall be inserted.”.

73. After section 234 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
234A.

“234A. (1) Where, upon information in his possession or otherwise, the Registrar has reasonable ground to believe that books and papers of, or relating to, any company or other body corporate, or any managing agent or secretaries and treasurers or managing director or manager of such company or other body corporate, or any associate of such managing agent or secretaries and treasurers, may be destroyed, mutilated, altered, falsified or secreted, the Registrar may make an application to the Magistrate of the First Class or, as the case may be, the Presidency Magistrate having jurisdiction for an order for the seizure of such books and papers.

Seizure of
documents
by Registrar.

(2) After considering the application and hearing the Registrar, if necessary, the Magistrate may, by order, authorise the Registrar—

(a) to enter, with such assistance as may be required, the place or places where such books and papers are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize such books and papers as he considers necessary.

(3) The Registrar shall return the books and papers seized under this section as soon as may be, and in any case not later than the thirtieth day, after such seizure, to the company or the other body corporate or, as the case may be, to the managing agent or the secretaries and treasurers or the associate of such

managing agent or secretaries and treasurers or the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such return:

Provided that the Registrar may, before returning such books and papers as aforesaid, take copies of, or extracts from them or deal with the same in such other manner as he considers necessary.

(4) Save as otherwise provided in this section, every search made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating to searches made under that Code.”

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Substitution
of new sec-
tion for sec-
tion 239.

Power of
inspectors to
carry investi-
gation into
affairs of re-
lated compa-
nies or of
managing
agent or
associate, etc.

74. For section 239 of the principal Act, the following section shall be substituted, namely:—

“239. (1) If an inspector appointed under section 235 or 237 to investigate the affairs of a company thinks it necessary for the purposes of his investigation to investigate also the affairs of—

(a) any other body corporate which is, or has at any relevant time been the company's subsidiary or holding company, or a subsidiary of its holding company, or a holding company of its subsidiary;

(b) any other body corporate which is, or has at any relevant time been, managed—

(i) by any person as managing agent or as secretaries and treasurers or as managing director or as manager, who is, or was at the relevant time, either the managing agent or the secretaries and treasurers or the managing director or the manager of the company; or

(ii) by any person who is, or was at the relevant time, an associate of the managing agent or secretaries and treasurers of the company; or

(iii) by any person of whom the managing agent or secretaries and treasurers of the company is, or was at the relevant time, an associate;

(c) any other body corporate which is, or has at any relevant time been, managed by the company or whose Board of directors comprises of nominees of the company or is accustomed to act in accordance with the directions or instructions of—

(i) the company, or

(ii) any of the directors of the company, or

(iii) any company any of whose directorships is held by the employees or nominees of those having the control and management of the first mentioned company; or

(d) any person who is or has at any relevant time been the company's managing agent or secretaries and treasurers or managing director or manager or an associate of such managing agent or secretaries and treasurers,

the inspector shall, subject to the provisions of sub-section (2), have power so to do and shall report on the affairs of the other body corporate or of the managing agent, secretaries and treasurers, managing director, manager or associate of the managing agent or secretaries and treasurers, so far as he thinks that the results of his investigation thereof are relevant to the investigation of the affairs of the first-mentioned company.

(2) In the case of any body corporate or person referred to in clause (b) (ii), (b) (iii), (c) or (d) of sub-section (1), the inspector shall not exercise his power of investigating into, and reporting on, its or his affairs without first having obtained the prior approval of the Central Government thereto:

Provided that before according approval under this sub-section, the Central Government shall give the body corporate or person a reasonable opportunity to show cause why such approval should not be accorded."

75. In section 240 of the principal Act,—

Amendment
of section
240.

(a) in sub-section (1), for the words "all officers" wherever they occur, the words "all officers and other employees" shall be substituted;

(b) in sub-section (2), the words "and for that purpose may require any of those persons to appear before him personally" shall be inserted at the end;

(c) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) If any such person fails without reasonable cause or refuses—

(a) to produce to an inspector any book or paper which it is his duty under sub-section (1) to produce;
or

(b) to appear before the inspector personally when required to do so under sub-section (2) or to answer any question which is put to him by the inspector in pursuance of that sub-section;

the inspector may certify the failure or refusal under his hand to the Court and make an application to the Court to hold an enquiry into the case; and the Court may, thereupon, after taking such evidence, if any, as may be produced against or on behalf of the alleged offender and hearing his explanation, if any, make an order for the production by him before the inspector of all such books or papers within a date to be specified in the order or requiring such person to answer any question which may be put to him by the inspector.

(3A) Any such person who disobeys an order of the Court under sub-section (3), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both and also with a further fine which may extend to two hundred rupees for every day after the first during which the disobedience continues.”;

(d) in sub-section (6), in clause (c), for the word “officers” occurring at both the places, the words “officers and other employees” shall be substituted.

Insertion of
new section
240A.

76. After section 240 of the principal Act, the following section shall be inserted, namely:—

Seizure of
documents
by inspector.

“240A. (1) Where in the course of investigation under section 235 or section 237 or section 239 or section 247, the inspector has reasonable ground to believe that the books and papers of, or relating to, any company or other body corporate or any managing agent or secretaries and treasurers or managing director or manager of such company or other body corporate, or any associate of such managing agent or secretaries and treasurers may be destroyed, mutilated, altered, falsified or secreted, the inspector may make an application to the Magistrate of the First Class or, as the case may be, the Presidency Magistrate, having jurisdiction for an order for the seizure of such books and papers.

(2) After considering the application and hearing the inspector, if necessary, the Magistrate may by order authorise the inspector—

(a) to enter, with such assistance, as may be required, the place or places where such books and papers are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books and papers he considers necessary for the purposes of his investigation.

(3) The inspector shall keep in his custody the books and papers seized under this section for such period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing agent, or the secretaries and treasurers or the associate of such managing agent or secretaries and treasurers or the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such return.

5 of 1898.

(4) Save as otherwise provided in this section, every search made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating to searches made under that Code."

77. In section 242 of the principal Act, in sub-section (1), for the words "all officers", the words "all officers and other employees" shall be substituted. Amendment of section 242.

78. In section 245 of the principal Act,—

(a) in sub-section (1), in clause (c), for sub-clause (i), the following sub-clause shall be substituted, namely:— Amendment of section 245.

"(i) any company, body corporate, managing agent, secretaries and treasurers, associate, managing director or manager dealt with by the report of the inspector shall be liable to reimburse the Central Government in respect of the whole of the expenses, unless and except in so far as, the Central Government otherwise directs; and";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The amount of expenses in respect of which any company, body corporate, managing agent, secretaries and treasurers, associate, managing director or manager is liable under sub-clause (i) of clause (c) of sub-section (1) to reimburse the Central Government shall be recoverable from that company, body corporate, managing agent, secretaries and treasurers, associate, managing director or manager, as an arrear of land revenue."

Amendment
of section
247.

79. In section 247 of the principal Act, in sub-section (5), in the first proviso, for the words "officers and agents", the words "officers and other employees and agents" shall be substituted.

Substitution
of new sec-
tion for
section 250.

80. For section 250 of the principal Act, the following section shall be substituted, namely:—

Imposition of
restrictions
upon shares
and debentures
and prohibition
of transfer of
shares or
debentures
in certain
cases.

"250. (1) Where it appears to the Central Government, whether in connection with any investigation under sections 247, 248 or 249 or otherwise, that there is good reason to find out the relevant facts about any shares (whether issued or to be issued) and the Central Government is of the opinion that such facts cannot be found out unless the restrictions specified in sub-section (2) are imposed, the Central Government may, by order, direct that the shares shall be subject to the restrictions imposed by sub-section (2) for such period not exceeding three years as may be specified in the order.

(2) So long as any shares are directed to be subject to the restrictions imposed by this sub-section—

(a) any transfer of those shares shall be void;

(b) where those shares are to be issued, they shall not be issued; and any issue thereof or any transfer of the right to be issued therewith, shall be void;

(c) no voting right shall be exercisable in respect of those shares;

(d) no further shares shall be issued in right of those shares or in pursuance of any offer made to the holder thereof; and any issue of such shares or any transfer of the right to be issued therewith, shall be void; and

(e) except in a liquidation, no payment shall be made of any sums due from the company on those shares, whether in respect of dividend, capital or otherwise.

(3) Where a transfer of shares in a company has taken place and as a result thereof a change—

(a) in the composition of the Board of directors, or

(b) where the managing agent is an individual, of the managing agent, or

(c) where the managing agent is a firm or a body corporate, in the constitution of the managing agent, of the company is likely to take place and the Central Government is of the opinion that any such change would be

prejudicial to the public interest, that Government may, by order, direct that—

(i) the voting rights in respect of those shares shall not be exercisable for such period not exceeding three years as may be specified in the order;

(ii) no resolution passed or action taken to effect a change in the composition of the Board of directors or of, or in the constitution of, the managing agent before the date of the order shall have effect unless confirmed by the Central Government.

(4) Where the Central Government has reasonable ground to believe that a transfer of shares in a company is likely to take place whereby a change—

(a) in the composition of the Board of directors, or

(b) where the managing agent is an individual, of the managing agent, or

(c) where the managing agent is a firm or a body corporate, in the constitution of the managing agent,

of the company is likely to take place and the Central Government is of the opinion that any such change would be prejudicial to the public interest, that Government may by order direct that any transfer of shares in the company during such period not exceeding three years as may be specified in the order shall be void.

(5) The Central Government may, by order at any time, vary or rescind any order made by it under sub-section (1) or sub-section (3) or sub-section (4).

(6) Where the Central Government makes an order under sub-section (1) or sub-section (3) or sub-section (4) or sub-section (5) or refuses to rescind any such order, any person aggrieved thereby may apply to the Court and the Court may, if it thinks fit, by order, vacate any such order of the Central Government:

Provided that no order, whether interim or final, shall be made by the Court without giving the Central Government an opportunity of being heard.

(7) Any order of the Central Government rescinding an order under sub-section (1), or any order of the Court vacating any such order, which is expressed to be made with a view to

permitting a transfer of any shares, may continue the restrictions mentioned in clauses (d) and (e) of sub-section (2), either in whole or in part, so far as they relate to any right acquired, or offer made, before the transfer.

(8) Any order made by the Central Government under sub-section (5) shall be served on the company within fourteen days of the making of the order.

(9) Any person who—

(a) exercises or purports to exercise any right to dispose of any shares or of any right to be issued with any such shares when to his knowledge he is not entitled to do so by reason of any of the said restrictions applicable to the case under sub-section (2); or

(b) votes in respect of any shares whether as holder or proxy, or appoints a proxy to vote in respect thereof, when to his knowledge he is not entitled to do so by reason of any of the said restrictions applicable to the case under sub-section (2) or by reason of any order made under sub-section (3); or

(c) transfers any shares in contravention of any order made under sub-section (4); or

(d) being the holder of any shares in respect of which an order under sub-section (2) or sub-section (3) has been made, fails to give notice of the fact of their being subject to any such order to any person whom he does not know to be aware of that fact but whom he knows to be otherwise entitled to vote in respect of those shares, whether as holder or as proxy,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(10) Where shares in any company are issued in contravention of such of the restrictions as may be applicable to the case under sub-section (2), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five thousand rupees.

(11) A prosecution shall not be instituted under this section except by, or with the consent of, the Central Government.

(12) This section shall apply in relation to debentures as it applies in relation to shares."

81. In section 252 of the principal Act,—

Amendment
of section
252.

(a) in sub-section (1), the words “, and every private company which is a subsidiary of a public company,” shall be omitted;

(b) in sub-section (2), the words “which is not a subsidiary of a public company” shall be omitted.

82. In section 253 of the principal Act, the words “public or private” shall be omitted.

Amendment
of section
253.

83. In section 255 of the principal Act, in sub-section (1), for the words “Not less than two-thirds”, the words “Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two-thirds” shall be substituted.

Amendment
of section
255.

84. In section 256 of the principal Act, after sub-section (5), the following *Explanation* shall be inserted, namely:—

Amendment
of section
256.

‘Explanation.—In this section and in section 257, the expression “retiring director” means a director retiring by rotation.’.

85. In section 257 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section
257.

“(1A) The company shall inform its members of the candidature of a person for the office of director or the intention of a member to propose such person as a candidate for that office, by serving individual notices on the members not less than seven days before the meeting:

Provided that it shall not be necessary for the company to serve individual notices upon the members as aforesaid if the company advertises such candidature or intention not less than seven days before the meeting in at least two newspapers circulating in the place where the registered office of the company is located, of which one is published in the English language and the other in the regional language of that place.”.

86. In section 261 of the principal Act,—

Amendment
of section
261.

(a) in sub-section (1), for the words “none of the following persons shall be appointed as a director of the company whose period of office is liable to determination by retirement of directors by rotation, except by a special resolution passed by the company:—”, the following words and figures shall be substituted, namely:—

“none of the following persons shall be appointed—

(i) as a director of the company whose period of office is liable to determination by retirement of directors by rotation, or

(ii) to fill a casual vacancy in the office of a director under section 262, or

(iii) as an additional director under section 260, or

(iv) as an alternate director under section 313, except by a special resolution passed by the company:—";

(b) in sub-section (2), for the words "as a director of the company", the words and figures "as a director or an additional or alternate director of the company or to fill a casual vacancy in the office of a director under section 262" shall be substituted.

Amendment of section 263.

87. In section 263 of the principal Act, in sub-section (2), in the proviso, for the words "retiring directors", the words "the director retiring by rotation" shall be substituted.

Insertion of new section 263A.

88. After section 263 of the principal Act, the following section shall be inserted, namely:—

Sections 177, 255, 256 and 263 not to apply in relation to companies not carrying business for profit, etc.

"263A. Nothing contained in sections 177, 255, 256 and 263 shall affect any provision in the articles of a company for the election by ballot of all its directors at each annual general meeting if such company does not carry on business for profit or prohibits the payment of a dividend to its members."

Substitution of new section for section 264.

89. For section 264 of the principal Act, the following section shall be substituted, namely:—

Consent of candidate for directorship to be filed with the company and consent to act as director to be filed with the Registrar.

"264. (1) Every person (other than a person who has left at the office of the company a notice under section 257 signifying his candidature for the office of a director) proposed as a candidate for the office of a director shall sign, and file with the company, his consent in writing to act as a director, if appointed.

(2) A person other than a director re-appointed after retirement by rotation shall not act as a director of a company unless he has within thirty days of his appointment signed and filed with the Registrar, his consent in writing to act as such director.

(3) This section shall not apply to a private company unless it is a subsidiary of a public company."

Amendment of section 267.

90. In section 267 of the principal Act, in clause (c), the words "in India" shall be omitted.

91. For section 269 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 269.

"269. (1) In the case of a public company or a private company which is a subsidiary of a public company, whether such public company or private company is an existing company or not, the appointment of a person for the first time as a managing or whole-time director shall not have any effect unless approved by the Central Government:

Appointment or re-appointment of managing or whole-time director to require Government approval in certain cases.

Provided that in the case of a public company, or a private company which is a subsidiary of a public company, incorporated after the commencement of the Companies (Amendment) Act, 1960, the appointment of a person as a managing or whole-time director for the first time after such incorporation may be made without the approval of the Central Government but such appointment shall cease to have effect after the expiry of three months from the date of such incorporation unless the appointment has been approved by that Government.

(2) Where a public company or a private company which is a subsidiary of a public company, is an existing company, the re-appointment of a person as a managing or whole-time director for the first time after the commencement of the Companies (Amendment) Act, 1960, shall not have any effect unless approved by the Central Government."

92. In section 271 of the principal Act, for the words "this Act", the words, brackets and figures "the Companies (Amendment) Act, 1960," and for the words "file with the company", the words "file with the Registrar" shall be substituted.

Amendment of section 271.

93. In section 274 of the principal Act, in sub-section (1), in clause (d), the words "in India" shall be omitted.

Amendment of section 274.

94. In section 280 of the principal Act,—

(a) in sub-section (2), after the existing proviso, the following further proviso shall be inserted, namely:—

Amendment of section 280.

"Provided further that where a person has been appointed as a director of a public company or of a private company which is a subsidiary of a public company, before he has attained the age of sixty-five years, he shall not be required to vacate his office within a period of three years after his appointment merely on the ground that he has attained that age within that period."

(b) in sub-section (3), for the words "retiring directors", the words "a director retiring by rotation" shall be substituted.

Amendment
of section
283.

95. In section 283 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "The office of a director shall be vacated if—", the words "The office of a director shall become vacant if—" shall be substituted;

(ii) for clause (e), the following clause shall be substituted, namely:—

"(e) he is convicted by a Court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;";

(iii) in clause (f), the words "unless the Central Government has, by notification in the Official Gazette, removed the disqualification incurred by such failure" shall be added at the end;

(iv) in clause (h), for the words "he, or any firm in which", the words and brackets "he (whether by himself or by any person for his benefit or on his account), or any firm in which" shall be substituted;

(v) the word "or" at the end of clause (j) shall be omitted and the word "; or" shall be added at the end of clause (k) and after that clause, the following clause shall be inserted, namely:—

"(l) having been appointed a director by virtue of his holding any office or other employment in the company, or as a nominee of the managing agent of the company, he ceases to hold such office or other employment in the company or, as the case may be, the managing agency comes to an end.";

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Subject to the provisions of sub-sections (1) and (2), if a person functions as a director when he knows that the office of director held by him has become vacant on account of any of the disqualifications, specified in the several clauses of sub-section (1), he shall be punishable with fine which may extend to five hundred rupees for each day on which he so functions as a director."

96. For section 285 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 285.

"285. In the case of every company, a meeting of its Board of directors shall be held at least once in every three calendar months; and not more than two months shall intervene between the last day of the calendar month in which such meeting is held and the date of the next meeting:

Board to meet at least once in every three calendar months.

Provided that the Central Government may, by notification in the Official Gazette, direct that the provisions of this section shall not apply in relation to any class of companies or shall apply in relation thereto subject to such exceptions, modifications or conditions as may be specified in the notification."

97. In section 287 of the principal Act, in sub-section (2), in the proviso, after the words "who are not interested", the words "present at the meeting being not less than two" shall be inserted.

Amendment of section 287.

98. In section 292 of the principal Act,—

Amendment of section 292.

(a) in sub-section (1), for the proviso, the following provisos and *Explanations* shall be substituted, namely:—

"Provided that the Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the managing agent, secretaries and treasurers, the manager or any other principal officer of the company or in the case of a branch office of the company, a principal officer of the branch office, the powers specified in clauses (c), (d) and (e) to the extent specified in sub-sections (2), (3) and (4) respectively, on such conditions as the Board may prescribe:

Provided further that the acceptance by a banking company in the ordinary course of its business of deposits of money from the public repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise or the placing of moneys on deposit by a banking company with another banking company on such conditions as the Board may prescribe, shall not be deemed to be a borrowing of moneys or, as the case may be, a making of loans by a banking company within the meaning of this section.

Explanation I.—Nothing in clause (c) of sub-section (1) shall apply to borrowings by a banking company from other

banking companies or from the Reserve Bank of India, the State Bank of India or any other banks established by or under any Act.

Explanation II.—In respect of dealings between a company and its bankers, the exercise by the company of the power specified in clause (c) of sub-section (1) shall mean the arrangement made by the company with its bankers for the borrowing of money by way of overdraft or cash credit or otherwise and not the actual day to day operation on overdraft, cash credit or other accounts by means of which the arrangement so made is actually availed of.”;

(b) in sub-section (2), after the words “the total amount”, the words “outstanding at any one time” shall be inserted.

Amendment
of section
293.

99. In section 293 of the principal Act, in sub-section (1),—

(a) in clause (b), the words “except in the case of renewal or continuance of an advance made by a banking company to its director in the ordinary course of business” shall be added at the end;

(b) in clause (c), for the words “the sale proceeds resulting from the acquisition, after the commencement of this Act, without the consent of the company”, the words “the amount of compensation received by the company in respect of the compulsory acquisition, after the commencement of this Act” shall be substituted;

(c) the existing *Explanation* shall be numbered as *Explanation III* and before the *Explanation* as so numbered, the following *Explanations* shall be inserted, namely:—

Explanation I.—Every resolution passed by the company in general meeting in relation to the exercise of the power referred to in clause (d) or in clause (e) shall specify the total amount up to which moneys may be borrowed by the Board of directors under clause (d) or as the case may be, the total amount which may be contributed to charitable and other funds in any financial year under clause (e).

Explanation II.—The expression “temporary loans” in clause (d) means loans repayable on demand or within six months from the date of the loan such as short term, cash credit arrangements, the discounting of bills and the issue of other short term loans of a seasonal character, but does

not include loans raised for the purpose of financing expenditure of a capital nature.’

100. After section 293 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 293A.

“293A. (1) Notwithstanding anything contained in section 293, neither a company in general meeting nor its Board of directors shall, after the commencement of the Companies (Amendment) Act, 1960, contribute—

Restrictions on the power to make political contributions.

(a) to any political party, or

(b) for any political purpose to any individual or body, any amount or amounts which or the aggregate of which will, in any financial year, exceed twenty-five thousand rupees or five per cent. of its average net profits as determined in accordance with the provisions of sections 349 and 350 during the three financial years immediately preceding, whichever is greater.

Explanation.—Where a portion of a financial year of the company falls before the commencement of the Companies (Amendment) Act, 1960, and a portion falls after such commencement, the latter portion shall be deemed to be a financial year within the meaning, and for the purposes, of this sub-section.

(2) Every company shall disclose in its profit and loss account any amount or amounts contributed by it under sub-section (1) to any political party or for any political purpose to any individual or body during the financial year to which that account relates, giving particulars of the total amount contributed and the name of the party, individual or body to which or to whom such amount has been contributed.

(3) If a company makes default in complying with the provisions of sub-section (2), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five thousand rupees.”

101. In section 294 of the principal Act,—

Amendment of section 294.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“Appointment of sole selling agents.

(1) No company shall, after the commencement of the Companies (Amendment) Act, 1960, appoint a sole selling agent for any area for a term exceeding five years at a time:

Provided that nothing in this sub-section shall be deemed to prohibit the re-appointment, or the extension of the term of office, of any sole selling agent by further periods not exceeding five years on each occasion

(2) After the commencement of the Companies (Amendment) Act, 1960, the Board of directors of a company shall not appoint a sole selling agent for any area except subject to the condition that the appointment shall cease to be valid if it is not approved by the company in the first general meeting held after the date on which the appointment is made.

(2A) If the company in general meeting as aforesaid disapproves the appointment, it shall cease to be valid with effect from the date of that general meeting.”;

(b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Notwithstanding anything contained in the foregoing provisions of this section—

(a) where at any time during the period beginning on the 1st day of April, 1956 and ending on the commencement of the Companies (Amendment) Act, 1960, a managing agent has ceased to hold office as such and has been appointed as the sole selling agent of the company whose managing agent he was, the sole selling agency agreement whether taken in his own name or in association with, or in the name of, any other person for his benefit or on his own account, shall unless approved by the Central Government within a period of six months from such commencement, become void and inoperative and the appointment as sole selling agent shall, unless it has terminated by efflux of time, come to an end on the expiry of that period;

(b) no managing agent—

(i) who has ceased to hold office as such before the commencement of the Companies (Amendment) Act, 1960, but has not been appointed before such commencement as the sole selling agent of the company whose managing agent he was, or

(ii) who has ceased to hold office as such after the commencement of the Companies (Amendment) Act, 1960,

shall be appointed after such commencement during a period of three years from the date of such cesser as the sole selling agent of the company whose managing agent he was except with the approval of the Central Government obtained in this behalf.”.

(5) (a) Where a company has a sole selling agent (by whatever name called) for an area and it appears to the Central Government that there is good reason so to do, the

Central Government may require the company to furnish to it such information regarding the terms and conditions of the appointment of the sole selling agent as it considers necessary for the purpose of determining whether or not such terms and conditions are prejudicial to the interests of the company;

(b) if the company refuses or neglects to furnish any such information, the Central Government may appoint a suitable person to investigate and report on the terms and conditions of appointment of the sole selling agent;

(c) if after perusal of the information furnished by the company or, as the case may be, the report submitted by the person appointed under clause (b), the Central Government is of the opinion that the terms and conditions of appointment of the sole selling agent are prejudicial to the interests of the company, the Central Government may, by order, make such variations in those terms and conditions as would in its opinion make them no longer prejudicial to the interests of the company;

(d) as from such date as may be specified by the Central Government in the order aforesaid, the appointment of the sole selling agent shall be regulated by the terms and conditions as varied by the Central Government.

(6) (a) Where a company has more selling agents than one (by whatever name called) in any area or areas and it appears to the Central Government that there is good reason so to do, the Central Government may require the company to furnish to it such information regarding the terms and conditions of appointment of all the selling agents as it considers necessary for the purpose of determining whether any of those selling agents should be declared to be the sole selling agent for such area or any of such areas;

(b) if the company refuses or neglects to furnish any such information, the Central Government may appoint a suitable person to investigate and report on the terms and conditions of appointment of all the selling agents;

(c) if after perusal of the information furnished by the company or, as the case may be, the report submitted by the person appointed under clause (b), the Central Government is of the opinion that having regard to the terms and conditions of appointment of any of the selling agents and to any other relevant factors, that selling agent is to all intents and purposes the sole selling agent for such

area, although there may be one or more other selling agents of the company operating in that area, the Central Government may by order declare that selling agent to be the sole selling agent of the company for that area with effect from such date as may be specified in the order and may make suitable variations in such of the terms and conditions of appointment of that selling agent as are in the opinion of the Central Government prejudicial to the interests of the company;

(d) as from the date specified in clause (c) the appointment of the selling agent declared to be the sole selling agent shall be regulated by the terms and conditions as varied by the Central Government.

(7) It shall be the duty of the company—

(a) to produce to the person appointed under clause (b) of sub-section (5) or clause (b) of sub-section (6), all books and papers of, or relating to, the company which are in its custody or power; and

(b) otherwise to give to that person all assistance in connection with the investigation which the company is reasonably able to give.

(8) If a company refuses or neglects—

(a) to furnish the information required by the Central Government under clause (a) of sub-section (5) or clause (a) of sub-section (6), or

(b) to produce to the person appointed under clause (b) of sub-section (5) or clause (b) of sub-section (6) any books and papers which are in its custody or power or otherwise to give to that person any assistance which it is reasonably able to give,

the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and with a further fine of not less than fifty rupees for every day after the first during which such refusal or neglect continues.”.

Amendment
of section
295.

102. In section 295 of the principal Act,—

(a) in sub-section (1), for the words “shall, without obtaining the previous approval of the Central Government in that behalf,” the words “without obtaining the previous approval of the Central Government in that behalf shall, directly or indirectly,” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Sub-section (1) shall not apply to—

(a) any loan made, guarantee given or security provided—

(i) by a private company unless it is a subsidiary of a public company, or

(ii) by a banking company;

(b) any loan made—

(i) by a holding company to its subsidiary, or

(ii) by a company which is the managing agent or secretaries and treasurers of another company to that other company;

(c) any guarantee given or security provided—

(i) by a holding company in respect of any loan made to its subsidiary, or

(ii) by a company which is the managing agent or secretaries and treasurers of another company in respect of any loan made to that other company.”;

(c) in sub-section (6), after the words “or security provided”, the words, letters and figures “after the 1st day of April, 1956,” shall be inserted.

103. For section 296 of the principal Act, the following section shall be substituted, namely:—

“296. Section 295 shall apply to any transaction represented by a book debt which was from its inception in the nature of a loan or an advance.”.

Substitution of new section for section 296.

Application of section 295 to book debts in certain cases.

104. In section 297 of the principal Act, for sub-sections (2), (3), (4) and (5), the following sub-sections shall be substituted, namely:—

Amendment of section 297.

“(2) Nothing contained in clause (a) of sub-section (1) shall affect—

(a) the purchase of goods and materials from the company, or the sale of goods and materials to the company, by any director, relative, firm, partner or private company as aforesaid for cash at prevailing market prices; or

(b) any contract or contracts between the company on one side and any such director, relative, firm, partner or private company on the other for sale, purchase or supply of

any goods, materials and services in which either the company or the director, relative, firm, partner or private company, as the case may be, regularly trades or does business:

Provided that such contract or contracts do not relate to goods and materials the value of which, or services the cost of which, exceeds five thousand rupees in the aggregate in any year comprised in the period of the contract or contracts; or

(c) in the case of a banking or insurance company any transaction in the ordinary course of business of such company with any director, relative, firm, partner or private company as aforesaid.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a director, relative, firm, partner or private company as aforesaid may, in circumstances of urgent necessity, enter, without obtaining the consent of the Board, into any contract with the company for the sale, purchase or supply of any goods, materials or services even if the value of such goods or cost of such services exceeds five thousand rupees in the aggregate in any year comprised in the period of the contract; but in such a case, the consent of the Board shall be obtained at a meeting within three months of the date on which the contract was entered into.

(4) Every consent of the Board required under this section shall be accorded by a resolution passed at a meeting of the Board and not otherwise; and the consent of the Board required under sub-section (1) shall not be deemed to have been given within the meaning of that sub-section unless the consent is accorded before the contract is entered into or within three months of the date on which it was entered into.

(5) If consent is not accorded to any contract under this section, anything done in pursuance of the contract shall be voidable at the option of the Board.

(6) Nothing in this section shall apply to any case where the consent has been accorded to the contract before the commencement of the Companies (Amendment) Act, 1960."

Amendment
of section
298.

105. In section 298 of the principal Act, the words "notwithstanding anything contained in this Act," shall be omitted.

Amendment
of section
299.

106. In section 299 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Nothing in this section shall apply to any contract or arrangement entered into or to be entered into between two com-

panies where any of the directors of the one company or two or more of them together holds or hold not more than two per cent. of the paid-up share capital in the other company.”.

107. In section 300 of the principal Act, in sub-section (2), in clause (d), for the words, brackets and figure “consists solely in his being a director of such company and the holder of not more than shares of such number or value therein as is requisite to qualify him for appointment as a director thereof, he having been nominated as such director by the company referred to in sub-section (1)”, the following words, brackets and figures shall be substituted, namely:—

Amendment
of section
300.

“consists solely—

(i) in his being a director of such company and the holder of not more than shares of such number or value therein as is requisite to qualify him for appointment as a director thereof, he having been nominated as such director by the company referred to in sub-section (1), or

(ii) in his being a member holding not more than two per cent. of its paid-up share capital”.

108. In section 301 of the principal Act, for sub-sections (1), (2) and (3), the following sub-sections shall be substituted, namely:—

Amendment
of section
301.

“(1) Every company shall keep one or more registers in which shall be entered separately particulars of all contracts or arrangements to which section 297 or section 299 applies, including the following particulars to the extent they are applicable in each case, namely:—

(a) the date of the contract or arrangement;

(b) the names of the parties thereto;

(c) the principal terms and conditions thereof;

(d) in the case of a contract to which section 297 applies or in the case of a contract or arrangement to which sub-section (2) of section 299 applies, the date on which it was placed before the Board;

(e) the names of the directors voting for and against the contract or arrangement and the names of those remaining neutral.

(2) Particulars of every such contract or arrangement to which section 297 or, as the case may be, sub-section (2)

of section 299 applies, shall be entered in the relevant register aforesaid—

(a) in the case of a contract or arrangement requiring the Board's approval, within seven days (exclusive of public holidays) of the meeting of the Board at which the contract or arrangement is approved,

(b) in the case of any other contract or arrangement, within seven days of the receipt at the registered office of the company of the particulars of such other contract or arrangement or within thirty days of the date of such other contract or arrangement whichever is later;

and the register shall be placed before the next meeting of the Board and shall then be signed by all the directors present at the meeting.

(3) The register aforesaid shall also specify, in relation to each director of the company, the names of the firms and bodies corporate of which notice has been given by him under sub-section (3) of section 299.

(3A) Nothing in sub-sections (1), (2) and (3) shall apply—

(a) to any contract or arrangement for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed one thousand rupees in the aggregate in any year; or

(b) to any contract or arrangement (to which section 297 or, as the case may be, section 299 applies) by a banking company for the collection of bills in the ordinary course of its business or to any transaction referred to in clause (c) of sub-section (2) of section 297."

Amendment
of section
302.

109. In section 302 of the principal Act, in sub-section (7), the words "or proposed resolution" and the words "or proposed contract" shall be omitted.

Amendment
of section
303.

110. In section 303 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), after the words "any former name or surname in full", the words "his father's name and surname in full or where the individual is a married woman, the husband's name and surname in full", shall be inserted;

(ii) in clause (b) after the words "that nationality", the words "the father's name or where a director is a married woman, the husband's name" shall be inserted;

(iii) in clause (c), after the words "that nationality", the words "the father's name or where a partner is a married woman, the husband's name" shall be inserted;

(iv) in clause (1) of the *Explanation*, for the words "whose instructions", the words "whose directions or instructions" shall be substituted;

(b) in sub-section (2),—

(i) for the words "a return in the prescribed form", the words "a return in duplicate in the prescribed form" shall be substituted;

(ii) for the words "a notification in the prescribed form", the words "a notification in duplicate in the prescribed form" shall be substituted;

(iii) the following proviso shall be added at the end, namely:—

"Provided that the notification of any change in any of the particulars contained in the register shall be sent within twenty-eight days of the close of the year during which the change occurred."

111. For section 305 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 305.

"305. (1) Every director, managing director, managing agent, secretaries and treasurers, manager or secretary of any company, who is appointed to, or relinquishes, the office of director, managing director, managing agent, secretaries and treasurers, manager or secretary of any other body corporate, shall, within twenty days of his appointment to, or as the case may be, relinquishment of, such office, disclose to the company aforesaid the particulars relating to the office in the other body corporate which are required to be specified under sub-section (1) of section 303; and if he fails to do so, he shall be punishable with fine which may extend to five hundred rupees.

Duty of directors, etc., to make disclosure.

(2) The provisions of sub-section (1) shall also apply to a person deemed to be a director of the company by virtue of the *Explanation* to sub-section (1) of section 303 when such person is appointed to, or relinquishes, any of the offices in the other body corporate referred to in sub-section (1)."

Amendment
of section
307.

112. In section 307 of the principal Act, after sub-section (10), the following sub-section shall be inserted, namely:—

“(11) The provisions of this section and section 308 shall apply to managing agents, secretaries and treasurers and managers as they apply to directors.”.

Amendment
of section
309.

113. In section 309 of the principal Act,—

(a) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) A director may receive remuneration by way of a fee for each meeting of the Board, or a committee thereof, attended by him:

Provided that where immediately before the commencement of the Companies (Amendment) Act, 1960, fees for meetings of the Board and any committee thereof, attended by a director are paid on a monthly basis, such fees may continue to be paid on that basis for a period of two years after such commencement or for the remainder of the term of office of such director, whichever is less, but no longer.

(3) A director who is either in the whole-time employment of the company or a managing director may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other:

Provided that except with the approval of the Central Government such remuneration shall not exceed five per cent. of the net profits for one such director, and if there is more than one such director, ten per cent. for all of them together.”;

(b) in sub-section (4), the following proviso shall be added at the end, namely:—

“Provided that the company in general meeting may, with the approval of the Central Government, authorise the payment of commission at a rate exceeding one per cent., or as the case may be, three per cent. of its net profits.”;

(c) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(5A) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess

of the limit prescribed by this section or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.

(5B) The company shall not waive the recovery of any sum refundable to it under sub-section (5A) unless permitted by the Central Government.”.

114. In section 310 of the principal Act, for the words “In the case of a public company, or a private company which is a subsidiary of a public company, an amendment of any provision relating to the remuneration of any director including a managing or whole-time director, which purports to increase”, the words “In the case of a public company, or a private company which is a subsidiary of a public company, any provision relating to the remuneration of any director including a managing or whole-time director, or any amendment thereof, which purports to increase” shall be substituted. Amendment
of section
310.

115. In section 313 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment
of section
313.

(2) An alternate director appointed under sub-section (1) shall not hold office as such for a period longer than that permissible to the original director in whose place he has been appointed and shall vacate office if and when the original director returns to the State in which meetings of the Board are ordinarily held.”.

116. In section 314 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:— Amendment
of section
314.

“(1) Except with the previous consent of the company accorded by a special resolution,—

(a) no director of a company shall hold any office or place of profit, and

(b) no partner or relative of such a director, no firm in which such a director or relative is a partner, no private company of which such a director is a director or member, and no director, managing agent, secretaries and treasurers, or manager of such a private company shall hold any office or place of profit carrying a total monthly remuneration of five hundred rupees or more,

except that of managing director, managing agent, secretaries and treasurers, manager, legal or technical adviser,

banker or trustee for the holders of debentures of the company,—

(i) under the company; or

(ii) under any subsidiary of the company, unless the remuneration received from such subsidiary in respect of such office or place of profit is paid over to the company or its holding company:

Provided that where a relative of a director or a firm in which such a relative is a partner, is appointed to an office or place of profit under the company or a subsidiary thereof without the knowledge of the director, the consent of the company may be obtained within three months from the date of the appointment; and if such consent is not obtained within that period or is refused, the relative or the firm shall be deemed to have vacated his or its office or place on and from the date of expiry of that period and shall be liable to refund to the company any remuneration drawn by him or it for the period immediately preceding that date.

Explanation.—For the purpose of this sub-section, a special resolution according consent shall be necessary for every appointment in the first instance to an office or place of profit and to every subsequent appointment to such office or place of profit on a higher remuneration not covered by the special resolution, except where an appointment on a time scale has already been approved by the special resolution.

(1A) Nothing in sub-section (1) shall apply where a relative of a director or a firm in which such relative is a partner holds any office or place of profit under the company or a subsidiary thereof having been appointed to such office or place before such director becomes a director of the company.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Every individual, firm, private company or other body corporate proposed to be appointed to any office or place of profit to which this section applies shall, before or at the time of such appointment, declare in writing whether he or it is or is not connected with a director of the company in any of the ways referred to in sub-section (1).”;

(c) in sub-section (3),—

- (i) the words "in a company" shall be omitted;
- (ii) in clause (a), for the words "obtains anything", the words "obtains from the company anything" shall be substituted;
- (iii) in clause (b), for the words "obtains anything", the words "obtains from the company anything" shall be substituted.

117. Section 315 of the principal Act shall be omitted.

Omission of
section 315.

118. In section 316 of the principal Act,—

Amendment
of section
316.

(a) in sub-section (1),—

- (i) for the words "No company", the words "No public company and no private company which is a subsidiary of a public company," shall be substituted;
- (ii) for the words "any other company", the words and brackets "any other company (including a private company which is not a subsidiary of a public company)" shall be substituted;

(b) in sub-section (2),—

- (i) for the words "A company", the words "A public company or a private company which is a subsidiary of a public company" shall be substituted;
- (ii) for the words "other company", the words and brackets "other company (including a private company which is not a subsidiary of a public company)" shall be substituted;

(c) in sub-section (3), for the words "two companies", the words "two companies of which each one or at least one is a public company or a private company which is a subsidiary of a public company" shall be substituted and for the words "this Act" occurring for the second time, the words, brackets and figures "the Companies (Amendment) Act, 1960," shall be substituted.

Amendment
of section
317.

119. In section 317 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) This section shall not apply to a private company unless it is a subsidiary of a public company.”.

Amendment
of section
318.

120. In section 318 of the principal Act, in sub-section (3),—

(a) in clause (a), the words “secretaries and treasurers” shall be omitted;

(b) in clause (c), for the brackets and letter “(k)”, the brackets and letter “(l)” shall be substituted.

Insertion of
new section
325A.

121. After section 325 of the principal Act, the following section shall be inserted, namely:—

Subsidiary of
a body cor-
porate not to
be appointed
as managing
agent

“325A. After the commencement of the Companies (Amendment) Act, 1960, no company shall appoint as its managing agent any body corporate which is a subsidiary either of itself or of any other body corporate unless immediately before such commencement the company has any such subsidiary as its managing agent.”.

Amendment
of sect 311
332.

122. In section 332 of the principal Act,—

(a) in sub-section (4), for clause (b), the following clause shall be substituted, namely:—

“(b) where the managing agent of the company is itself a company, every person who is a director, the secretaries and treasurers or a manager of the latter company, and where the latter company is a public company, every member who is entitled to exercise not less than ten per cent. of the total voting power therein and, where the latter company is a private company, every member thereof who is entitled to exercise not less than five per cent. of the total voting power therein.”;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) A director or member referred to in clause (b) of sub-section (4) shall include any person in accordance

with whose directions or instructions any director or, as the case may be, any member is in the opinion of the Central Government accustomed to act."

123. In section 342 of the principal Act,—

Amendment
of section
342.

(a) in sub-section (1), for the words "resign his office with effect from such date as may be specified in the notice", the words, brackets and figure "resign his office as from such date as may be specified in the notice but such resignation shall not be effective until it is accepted by the company under sub-section (7)" shall be substituted;

(b) in sub-section (2), for the words, brackets and figure "but his resignation shall not be effective until it is considered as provided in sub-section (3)", the words "but the managing agent shall not be absolved from liability to the company for his acts whether of commission or omission, during the period of his managing agency" shall be substituted;

(c) for sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:—

"(3) When notice of resignation is given as aforesaid, the Board shall require the managing agent within such time as may be fixed by it or such further time as may be allowed by it, to prepare, and the managing agent shall prepare, a report on the state of affairs of the company as on the date specified in the notice of resignation or such subsequent date as the Board may think suitable, not being later than that on which the managing agent ceases to act as such under sub-section (2), together with a balance-sheet made out as on that date and a profit and loss account for the period commencing from the date up to which the last such account was prepared and ending with the date on which the managing agent ceases to act as such.

(4) In case of default by the managing agent in complying with the requisition of the Board under sub-section (3), the Board shall itself cause a report on the state of affairs of the company as on the date specified in the notice of

resignation or such subsequent date as the Board may think suitable, not being later than that on which the managing agent ceases to act as such under sub-section (2), together with a balance-sheet made out as on that date and a profit and loss account for the period specified in sub-section (3), to be prepared.

(5) The Board shall also obtain a report from the auditors of the company on such balance-sheet and profit and loss account in accordance with sections 227, 228 and 229 and place the managing agent's resignation together with the report on the state of the company's affairs, balance-sheet, profit and loss account and auditors' report mentioned above, before the company in general meeting.

(6) In relation to any report made by the auditors as aforesaid, sections 230 to 233 shall apply in like manner as they apply in relation to auditors' report referred to therein.

(7) The company in general meeting may, by a resolution, accept the resignation or take such other action with reference thereto as it may deem fit."

Substitution
of new sec-
tion for sec-
tion 343.

Transfer of
office
by managing
agent.

124. For section 343 of the principal Act, the following section shall be substituted, namely:—

"343. (1) The managing agent of a company shall not transfer his office to another person or enter into any agreement or arrangement with another person by or under which the managing agent parts with, or which has the effect of transferring, his right to manage the whole or substantially the whole of the affairs of the company in favour of or to that other person unless approval of the company in general meeting and also of the Central Government has been accorded to such transfer, agreement or arrangement.

(2) If the other person and the managing agent referred to in sub-section (1) contravene the provisions of that sub-section, that other person and the managing agent, and where the

managing agent is a firm, every partner in the firm and where the managing agent is a body corporate, every director of the body corporate, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

125. In section 346 of the principal Act,—

Amendment
of section
346.

(a) in sub-section (1),—

(i) for the words "before such expiry", the words "before the expiry of six months aforesaid or where further time has been allowed by the Central Government, before the expiry of that time" shall be substituted;

(ii) in the *Explanation*, after clause (c), the following words shall be inserted as a separate paragraph, namely:—

"and where the managing agent, being a body corporate is a subsidiary of another body corporate, includes a change in the constitution of that other body corporate within the meaning of clause (a), clause (b) or clause (c).";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where the managing agent is a body corporate (whether or not it is a subsidiary of another body corporate) and its shares are for the time being dealt in, or quoted on, a recognised stock exchange, a change in the ownership of its shares, or

where a managing agent being a body corporate is a subsidiary of another body corporate and the shares of the other body corporate are for the time being dealt in, or quoted on, a recognised stock exchange, a change in the ownership of the shares of the other body corporate,

shall not be deemed to be a change in the constitution of the managing agent within the meaning and for the pur-

poses of sub-section (1), unless the Central Government, by notification in the Official Gazette, otherwise directs:

Provided that no such notification shall be issued in respect of any such, or such other, body corporate as aforesaid, unless the Central Government is of the opinion that any change in the ownership of its shares has taken place or is likely to take place, which has affected or is likely to affect prejudicially the affairs of any company which is being managed by the managing agent.”.

Amendment
of section
348.

126. Section 348 of the principal Act shall be re-numbered as sub-section (1) of that section and—

(a) in that sub-section as so re-numbered, the words “Save as otherwise expressly provided in this Act,” shall be omitted;

(b) after that sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) For the purposes of this section, any payment made by way of remuneration to any of the following persons shall be deemed to be included in the remuneration of the managing agent:—

(a) where the managing agent of the company is a firm, every partner in the firm;

(b) where the managing agent of the company is a public company, every director of that public company;

(c) where the managing agent of the company is a private company, every director and member of that private company.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to affect the operation of sections 352, 354 and 356 to 360.”.

Amendment
of section
349

127. In section 349 of the principal Act,—

(a) in sub-section (3),—

(i) in clause (c), for the words “profits from the sale”, the words “profits of a capital nature including profits from the sale” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that where the amount for which any fixed asset is sold exceeds the written-down value thereof referred to in section 350, credit shall be given for so much of the excess as is not higher than the difference between the original cost of that fixed asset and its written-down value.”;

(b) in sub-section (4),—

(i) for clause (j), the following clause shall be substituted, namely:—

“(j) outgoings inclusive of contributions made under clause (e) of sub-section (1) of section 293;”;

(ii) for clause (l), the following clause shall be substituted, namely:—

“(l) the excess of expenditure over income, which had arisen in computing the net profits in accordance with this section in any year which begins at or after the commencement of this Act, in so far as such excess has not been deducted in any subsequent year preceding the year in respect of which the net profits have to be ascertained;”;

(iii) after clause (n), the following clause shall be inserted, namely:—

“(o) debts considered bad and written off or adjusted during the year of account.”;

(c) in sub-section (5), after clause (c), the following clause shall be inserted, namely:—

“(d) loss of a capital nature including loss on sale of the undertaking or any of the undertakings of the company or of any part thereof not including any excess referred to in the proviso to section 350 of the written-down value of any asset which is sold, discarded, demolished or destroyed over its sale proceeds or its scrap value.”.

Substitution
of new sec-
tion for sec-
tion 350.

Ascertain-
ment of dep-
reciation.

128. For section 350 of the principal Act, the following section shall be substituted, namely:—

“350. The amount of depreciation to be deducted in pursuance of clause (k) of sub-section (4) of section 349 shall be the amount calculated with reference to the written-down value of the assets as shown by the books of the company at the end of the financial year expiring at the commencement of this Act or immediately thereafter and at the end of each subsequent financial year, at the rate specified for the assets by the Indian Income-tax Act, 1922, and the rules made thereunder for the time being in force, as normal depreciation including therein extra and multiple shift allowances but not including therein any special, initial or other depreciation or any development rebate, whether allowed by that Act or those rules or otherwise:

11 of 1924.

Provided that if any asset is sold, discarded, demolished or destroyed for any reason before depreciation of such asset has been provided for in full, the excess, if any, of the written-down value of such asset over its sale proceeds or, as the case may be, its scrap value, shall be written off in the financial year in which the asset is sold, discarded, demolished or destroyed.”.

Amendment
of section
356.

129. In section 356 of the principal Act, in sub-section (2), in clause (a), the words “or any other company managed by the managing agent” shall be added at the end.

Amendment
of section
358.

130. In section 358 of the principal Act, in sub-section (2), after the words “not connected with that of the company”, the words “or any other company managed by the managing agent” shall be inserted.

Amendment
of section
359.

131. In section 359 of the principal Act, in sub-section (1), the words “managing agent, secretaries and treasurers, manager” shall be omitted.

Amendment
of section
360.

132. In section 360 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A contract between a company and its managing agent or an associate of the managing agent,—

(a) for the sale, purchase or supply of any property, movable or immovable, or for the supply or rendering of any service other than that of managing agent; or

(b) for the underwriting of any shares or debentures to be issued or sold by the company;
shall not be valid against the company—

(i) unless the contract has been approved by the company by a special resolution passed by it, and

(ii) where the contract is for the supply or rendering of any service other than that of managing agent, unless further the contract has been approved by the Central Government,

either before the date of the contract or at any time within three months next after that date.”;

(b) in sub-section (2).—

(i) in clause (a), after the words “proposed to be entered into”, the words “or entered into” shall be inserted;

(ii) in clause (b), for the word “goods”, the word “property” shall be substituted;

(c) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Nothing in clause (a) of sub-section (1) shall affect any contract or contracts for the sale, purchase or supply of any property or the supply or rendering of any services, in which either the company or the managing agent or associate, as the case may be, regularly trades or does business, provided that the value of such property or the cost of such services does not exceed five thousand rupees in the aggregate in any year comprised in the period of the contract or contracts.”.

133. Section 363 of the principal Act shall be re-numbered as sub-section (1) of that section and—

Amendment
of section
363.

(a) in sub-section (1) as so re-numbered, for the words “shall account to the company for such sum as if he held it in trust for the company”, the words “shall refund such sum to the company and until such sum is so refunded, hold it in trust for the company” shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) The company shall not waive the recovery of any sum refundable to it under sub-section (1) unless permitted by the Central Government.”.

Amendment
of section
369.

134. In section 369 of the principal Act,—

(a) in sub-section (1), for the words “shall make”, the words “shall, directly or indirectly, make” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Nothing contained in sub-section (1) or section 295 shall apply to—

(a) any credit given by the company to its managing agent for the purpose of facilitating the company's business and held by such agent in his own name in one or more current accounts, subject to limits previously approved by the directors of company and on no account exceeding twenty thousand rupees in the aggregate; or

(b) any loan made by a holding company to its subsidiary.

Explanation.—Credit referred to in clause (a) of sub-section (2) is confined to any cash advance given by way of a permanent advance or imprest for facilitating the carrying on of the company's business, transactions on such advance or imprest account being settled as far as possible on a monthly basis.”.

Amendment
of section
370.

135. In section 370 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where the lending company—

(a) makes any loan to, or

(b) gives any guarantee, or provides any security, in connection with a loan made by any other person to, or to any other person by,

a firm in which a partner is a body corporate under the same management as the lending company—

(i) the loan shall be deemed to have been made to, or

(ii) the guarantee or the security shall be deemed to have been given or provided in connection with the

loan made by such other person to, or to such other person by,

a body corporate under the same management.”;

(b) the *Explanation* to sub-section (1) shall be numbered and lettered as sub-section (1B) and in sub-section (1B) as so numbered and lettered,—

(i) for the words “For the purposes of this sub-section”, the words, brackets, figures and letter “For the purposes of sub-sections (1) and (1A)” shall be substituted;

(ii) at the end of clause (ii), the word “or” shall be added;

(iii) after clause (ii), the following clauses shall be inserted, namely:—

“(iii) if not less than one-third of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individual or body corporate; or

(iv) if the holding company of the one body corporate is under the same management as the other body corporate within the meaning of clause (i), clause (ii) or clause (iii), or

(v) if one or more directors of the one body corporate while holding, whether by themselves or together with their relatives, the majority of shares in that body corporate also hold, whether by themselves or together with their relatives, the majority of shares in the other body corporate.”;

(c) after sub-section (1B) as so numbered and lettered, the following sub-sections shall be inserted, namely:—

“(1C) Every lending company shall keep a register showing—

(a) the names of all bodies corporate under the same management as the lending company and the name of every firm in which a partner is a body corporate under the same management as the lending company, and

(b) the following particulars in respect of every loan made, guarantee given or security provided by the lending company under this section:—

(i) the name of the body corporate to which the loan has been made whether such loan has been

made before or after that body corporate came under the same management as the lending company,

(ii) the amount of the loan,

(iii) the date on which the loan has been made,

(iv) the date on which the guarantee has been given or security has been provided in connection with a loan made by any other person to, or to any other person by, any body corporate or firm referred to in sub-section (1) or (1A) together with the name of the person, body corporate or firm.

(1D) Particulars of every such loan, guarantee or security shall be entered in the register aforesaid within three days of the making of such loan, or the giving of such guarantee or the provision of such security or in the case of any loan made, guarantee given or security provided before the commencement of the Companies (Amendment) Act, 1960, within three months from such commencement or such further time not exceeding six months as the company may by special resolution allow.

(1E) If default is made in complying with the provisions of sub-section (1C) or (1D), the company and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees and also with a further fine which may extend to fifty rupees for every day after the first during which the default continues.

(1F) The register aforesaid shall be kept at the registered office of the lending company and—

(a) shall be open to inspection at such office, and

(b) extracts may be taken therefrom or copies thereof may be required,

by any member of the company to the same extent and in the same manner and on the payment of the same fees as in the case of the register of members of the company; and the provisions of section 163 shall apply accordingly.”;

(d) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Nothing contained in the foregoing provisions of this section shall apply to—

(a) any loan made—

(i) by a holding company to its subsidiary, or

(ii) by the managing agent or secretaries and treasurers to any company under his or their management, or

(iii) by a banking company in the ordinary course of its business;

(b) any guarantee given or any security provided—

(i) by a holding company in respect of any loan made to its subsidiary, or

(ii) by the managing agent or secretaries and treasurers in respect of any loan made to any company under his or their management; or

(iii) by a banking company in the ordinary course of its business.

(3) Nothing in this section shall apply to a book debt unless the transaction represented by the book debt was from its inception in the nature of a loan or an advance

(4) For the purposes of this section, any person in accordance with whose directions or instructions the Board of directors of a company is accustomed to act shall be deemed to be a director of the company.”.

136. After section 370 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
370A.

“370A. Where any loan made, guarantee given or security provided by a company and outstanding at the commencement of the Companies (Amendment) Act, 1960 would not have been made, given or provided if section 369 or section 370 had been in force at the time when such loan was made, guarantee given or security provided, the company shall, within six months from the commencement of that Act, enforce the repayment of the

Provisions
as to certain
loans which
could not
have been
made if sec-
tions 369 and
370 were in
force.

loan made or, as the case may be, revoke the guarantee given or the security provided, notwithstanding any agreement to the contrary:

Provided that the period of six months within which the company is required by this section to enforce the repayment of the loan or to revoke the guarantee or security, may be extended—

(a) in the case of a loan, guarantee or security under section 369, by the Central Government on an application made to it by the company for that purpose;

(b) in the case of a loan, guarantee or security under section 370, by a special resolution of the company.”

Amendment
of section
371.

137. In section 371 of the principal Act, in sub-section (1), for the words and figures “section 369 or 370”, the words, brackets, figures and letters “section 369 or section 370 [excluding sub-section (1C) or (1D)], or section 370A” shall be substituted.

Substitution
of new sec-
tion for sec-
tion 372.

138. For section 372 of the principal Act, the following section shall be substituted, namely:—

Purchase by
company of
shares, etc.,
of other
companies.

“372. (1) A company (hereafter in this section and section 373 referred to as the investing company) shall not be entitled to subscribe for, or purchase (whether by itself, or by any individual or association of individuals in trust for it or for its benefit or on its account) the shares of any other body corporate except to the extent and except in accordance with the restrictions and conditions specified in this section.

(2) The Board of directors of the investing company shall be entitled to invest in any shares of any other body corporate up to ten per cent. of the subscribed capital of such other body corporate:

Provided that the aggregate of the investments so made by the Board in all other bodies corporate shall not exceed thirty per cent. of the subscribed capital of the investing company:

Provided further that the aggregate of the investments made in all other bodies corporate in the same group shall not exceed twenty per cent. of the subscribed capital of the investing company.

(3) In computing at any time the percentages specified in sub-section (2) and the provisos thereto, the aggregate of the investments made by the investing company in other body or bodies corporate [whether before or after the commencement

of the Companies (Amendment) Act, 1960] up to that time shall be taken into account.

(4) The investing company shall not make any investment in the shares of any other body corporate in excess of the percentages specified in sub-section (2) and the provisos thereto, unless the investment is sanctioned by a resolution of the investing company in general meeting and unless further it is approved by the Central Government:

Provided that the investing company may at any time invest up to any amount in shares offered to it under clause (a) of sub-section (1) of section 81 (hereafter in this section referred to as rights shares) irrespective of the aforesaid percentages:

Provided further that when at any time the investing company intends to make any investments in shares other than rights shares, then, in computing at that time any of the aforesaid percentages, all existing investments, if any, made in rights shares up to that time shall be included in the aggregate of the investments of the company.

(5) No investment shall be made by the Board of directors of an investing company in pursuance of sub-section (2), unless it is sanctioned by a resolution passed at a meeting of the Board with the consent of all the directors present at the meeting, except those not entitled to vote thereon, and unless further notice of the resolution to be moved at the meeting has been given to every director in the manner specified in section 286.

(6) Every investing company shall keep a register of all investments made by it in shares of any other body or bodies corporate (whether in the same group or not and whether in the case of a body corporate in the same group, such investments were made before or after that body came within the same group as the investing company), showing in respect of each investment the following particulars:—

(a) the name of the body corporate in which the investment has been made;

(b) the date on which the investment has been made;

(c) where the body corporate is in the same group as the investing company, the date on which the body corporate came in the same group;

(d) the names of all bodies corporate in the same group as the investing company.

(7) Particulars of every investment to which sub-section (6) applies shall be entered in the register aforesaid within seven days of the making thereof or in the case of investments made before the commencement of the Companies (Amendment) Act, 1960, within six months from such commencement, or such further time as the Central Government may grant on an application by the company in that behalf.

(8) If default is made in complying with the provisions of sub-section (6) or (7), the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees and also with a further fine which may extend to fifty rupees for every day after the first during which the default continues.

(9) The register aforesaid shall be kept at the registered office of the investing company and—

(a) shall be open to inspection at such office, and

(b) extracts may be taken therefrom and copies thereof may be required,

by any member of the investing company to the same extent, in the same manner, and on the payment of the same fees as in the case of the register of members of the investing company; and the provisions of section 163 shall apply accordingly.

(10) Every investing company shall annex in each balance-sheet prepared by it after the commencement of the Companies (Amendment) Act, 1960, a statement showing the bodies corporate (indicating separately the bodies corporate in the same group) in the shares of which investments have been made by it (including all investments, whether existing or not, made subsequent to the date as at which the previous balance-sheet was made out) and the nature and extent of the investments so made in each body corporate:

Provided that in the case of a company whose principal business is the acquisition of shares, stock, debentures or other securities (hereafter in this section referred to as an investment company), it shall be sufficient if the statement shows only the investments existing on the date as at which the balance-sheet to which the statement is annexed has been made out.

(11) For the purposes of this section, a body corporate shall be deemed to be in the same group as the investing company—

(a) if the body corporate is the managing agent of the investing company; or

(b) if the body corporate and the investing company should, in virtue of sub-section (1B) of section 370, be deemed to be under the same management.

(12) References in the foregoing provisions of this section to shares shall in the case of investments made by the investing company in other bodies corporate in the same group, be deemed to include references to debentures also.

(13) The provisions of this section except the first proviso to sub-section (2) shall also apply to an investment company.

(14) This section shall not apply—

(a) to any banking or insurance company;

(b) to a private company, unless it is a subsidiary of a public company;

(c) to any company established with the object of financing, whether by way of making loans or advances to, or subscribing to the capital of, private industrial enterprises in India, in any case where the Central Government has made or agreed to make to the company a special advance for the purpose or has guaranteed or agreed to guarantee the payment of moneys borrowed by the company from any institution outside India;

(d) to investments by a holding company in its subsidiary; or

(e) to investments by a managing agent or secretaries and treasurers in a company managed by him or them.”.

139. In section 373 of the principal Act,—

Amendment
of section
373.

(a) after the words “made by a company”, the words “in any other body corporate in the same group” shall be inserted; and

(b) for the words “the proviso to that sub-section”, the words “the second proviso to that sub-section” shall be substituted.

140. In section 374 of the principal Act, for the words and figures “section 372 or 373”, the words, figures and brackets “section 372 [excluding sub-sections (6) and (7)] or section 373” shall be substituted.

Amendment
of section
374.

Amendment
of section
377-

141. In section 377 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Nothing contained in sub-section (1), or in any other provision of this Act, or in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the company in general meeting, or by its Board of directors shall be deemed to authorise the managing agent to appoint the chairman of the Board of directors.”;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Where from any cause the total number of directors is so reduced as not to exceed five, but the number of directors appointed by the managing agent exceeds, after such reduction, the number authorised under sub-section (1), the managing agent shall determine which of them shall continue to hold office and intimate the choice made by him to the company before the expiry of one month from the happening of the cause and only the director so chosen shall continue to hold office as director with effect from such expiry:

Provided that if no choice is made by the managing agent as aforesaid, all the directors appointed by him shall, with effect from such expiry, be deemed to have vacated their offices.”.

Amendment
of section
378.

142. In section 378 of the principal Act, the proviso shall be omitted.

Amendment
of section
379.

143. In section 379 of the principal Act, after the words “subject as aforesaid”, the words “ and unless the context otherwise requires” shall be inserted.

Amendment
of section
381.

144. In section 381 of the principal Act, the word “annual” occurring at both the places shall be omitted.

Amendment
of section
384.

145. In section 384 of the principal Act, for the words “No public company, and no private company which is a subsidiary of a public company,”, the words “No company” shall be substituted.

Amendment
of section
386.

146. In section 386 of the principal Act, sub-section (5) shall be omitted.

147. In section 387 of the principal Act,—
 - (a) the words “not exceeding five,” shall be omitted;
 - (b) the following proviso shall be added at the end, namely:—

“Provided that except with the approval of the Central Government such remuneration shall not exceed in the aggregate five per cent. of the net profits.”.
148. In section 388 of the principal Act, for the figures “310”, the figures “269, 310” shall be substituted.
149. After section 388 of the principal Act, the following section shall be inserted, namely:—

“388A. Sections 386, 387 and 388 shall not apply to a private company unless it is a subsidiary of a public company.”.
150. Section 389 of the principal Act shall be omitted.
151. In section 391 of the principal Act, in sub-section (2), after the words “where proxies are allowed”, the words and figures “under the rules made under section 643” shall be inserted.
152. In section 396 of the principal Act, in sub-section (1), for the words “national interest”, the words “public interest” shall be substituted.
153. In section 398 of the principal Act, in sub-section (1), in clause (b), after the words “secretaries and treasurers”, where they occur for the first time, the words “or manager” shall be inserted.
154. In section 407 of the principal Act, in sub-section (1), in clause (b), for the words “the order terminating the agreement”, the words “the order terminating or setting aside the agreement” shall be substituted.
155. In section 408 of the principal Act,—
 - (a) in sub-section (1),—
 - (i) the words “being members of the company,” shall be omitted;
 - (ii) for the words “two hundred”, the words “one hundred” shall be substituted;
 - (b) in sub-section (2), for the words “two members of the company”, the words “two persons” shall be substituted;

Amendment
of section
387.

Amendment
of section
388.

Insertion of
new section
388A.

Sections 386
to 388 not
to apply to
certain pri-
vate compa-
nies

Omission of
section 389.

Amendment
of section
391.

Amendment
of section
396.

Amendment
of section
398.

Amendment
of section
407.

Amendment
of section
408.

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) A person appointed under sub-section (1) to hold office as a director or a person directed under sub-section (2) to hold office as an additional director, shall not be required to hold any qualification shares nor his period of office shall be liable to determination by retirement of directors by rotation; but any such director or additional director may be removed by the Central Government from his office at any time and another person may be appointed by that Government in his place to hold office as a director or, as the case may be, an additional director.

(5) No change in the Board of directors made after a person is appointed or directed to hold office as a director or additional director under this section shall, so long as such director or additional director holds office, have effect unless confirmed by the Central Government.”.

Amendment
of section
409

156. In section 409 of the principal Act, in sub-section (1),—

(a) for the words “or the secretaries and treasurers”, the words “the secretaries and treasurers or the manager” shall be substituted;

(b) for the words “no resolution passed or action taken”, the words “no resolution passed or that may be passed or no action taken or that may be taken” shall be substituted.

Amendment
of section
411.

157. In section 411 of the principal Act, the following provisions shall be added at the end, namely:—

“Provided that it shall not be necessary for the Central Government to refer to the Advisory Commission any application under section 408 or section 409 which in the opinion of that Government is of a frivolous nature or deals with matters of minor importance:

Provided further that the Central Government may, in the case of any application under section 408 or section 409 which has been, or may be, referred to the Advisory Commission, make such interim order as it thinks fit but it shall not make any final order on such application except after considering the advice tendered by the Advisory Commission.”.

Amendment
of section
417.

158. In section 417 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any money or security deposited with a company by any of its employee in pursuance of his contract of

service with the company shall be kept or deposited by the company within fifteen days from the date of deposit—

(a) in a post office savings bank account, or

(b) in a special account to be opened by the company for the purpose in the State Bank of India or in a Scheduled Bank, or

(c) where the company itself is a Scheduled Bank, in a special account to be opened by the company for the purpose either in itself or in the State Bank of India or in any other Scheduled Bank.”;

(b) in sub-section (3), the words “with a Scheduled Bank” shall be omitted.

159. In section 418 of the principal Act,—

Amendment
of section
418.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or received or accruing by way of interest or otherwise to such fund shall, within fifteen days from the date of contribution, receipt or accrual, as the case may be, either—

(a) be deposited—

(i) in a post office savings bank account, or

(ii) in a special account to be opened by the company for the purpose in the State Bank of India or in a Scheduled Bank, or

(iii) where the company itself is a Scheduled Bank, in a special account to be opened by the company for the purpose either in itself or in the State Bank of India or in any other Scheduled Bank; or

(b) be invested in the securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882.”;

(b) in sub-section (4),—

(i) the word “separate” shall be omitted;

(ii) after the words “to the trustees”, the words “within fifteen days from the date of collection” shall be inserted.

Amendment
of section
420.

160. In section 420 of the principal Act, for the words "fine which may extend to five hundred rupees", the words "imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees" shall be substituted.

Amendment
of section
426.

161. In section 426 of the principal Act, in sub-section (1), in clause (g), for the words "any other creditor who is not a past or present member of the company", the words "any creditor claiming otherwise than in the character of a past or present member of the company" shall be substituted.

Amendment
of section
439.

162. In section 439 of the principal Act, in sub-section (5),—

(a) for the words, brackets and letters "clauses (b), (c) and (e)", the words, brackets and letters "clauses (b), (c), (d), (e) and (f)" shall be substituted;

(b) in the first proviso, for the words "an inspector", the words, figures and letter "a special auditor appointed under section 233A or an inspector" shall be substituted.

Amendment
of section
444.

163. In section 444 of the principal Act, for the words "Official Liquidator", the words "Official Liquidator and the Registrar" shall be substituted.

Amendment
of section
445.

164. In section 445 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) In computing the period of one month from the date of the making of a winding up order under sub-section (1), the time requisite for obtaining a certified copy of the order shall be excluded."

Amendment
of section
446.

165. In section 446 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Court which is winding up the company shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of—

(a) any suit or proceeding by or against the company;

(b) any claim made by or against the company (including claims by or against any of its branches in India);

(c) any application made under section 391 by or in respect of the company;

(d) any question of priorities or any other question whatsoever, whether of law or fact, which may relate to or arise in course of the winding up of the company;

whether such suit or proceeding has been instituted or is instituted, or such claim or question has arisen or arises or such application has been made or is made before or after the order for the winding up of the company, or before or after the commencement of the Companies (Amendment) Act, 1960.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Nothing in sub-section (1) or sub-section (3) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.”.

166. In section 448 of the principal Act,—

Amendment
of section
448.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Central Government may appoint one or more Deputy or Assistant Official Liquidators to assist the Official Liquidator in the discharge of his functions.”;

(b) in sub-section (2), the words, brackets, figure and letter ‘and as including references to Deputy or Assistant Official Liquidators appointed under sub-section (1A)’ shall be inserted at the end.

167. In section 454 of the principal Act,—

Amendment
of section
454.

(a) for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) If any person, without reasonable excuse, makes default in complying with any of the requirements of this section, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one hundred rupees for every day during which the default continues, or with both.

(5A) The Court by which the winding up order is made or the provisional liquidator is appointed, may take cognizance of an offence under sub-section (5) upon receiving a

complaint of facts constituting such an offence and trying the offence itself in accordance with the procedure laid down in the Code of Criminal Procedure, 1898, for the trial of summons cases by magistrates." 5 of 1898.

Amendment
of section
455.

168. In section 455 of the principal Act, in sub-section (1), after the words "six months from the date of the order", the words "or such extended period as may be allowed by the Court" shall be inserted.

Amendment
of section
456.

169. In section 456 of the principal Act,—

(a) in sub-section (1), after the words "the liquidator", the words "or the provisional liquidator, as the case may be," shall be inserted;

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) For the purpose of enabling the liquidator or the provisional liquidator, as the case may be, to take into his custody or under his control, any property, effects or actionable claims to which the company is or appears to be entitled, the liquidator or the provisional liquidator, as the case may be, may by writing request the Chief Presidency Magistrate or the District Magistrate within whose jurisdiction such property, effects or actionable claims or any books of account or other documents of the company may be found, to take possession thereof, and the Chief Presidency Magistrate or the District Magistrate may thereupon after such notice as he may think fit to give to any party, take possession of such property, effects, actionable claims, books of account or other documents and deliver possession thereof to the liquidator or the provisional liquidator.

(1B) For the purpose of securing compliance with the provisions of sub-section (1A), the Chief Presidency Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be necessary."

Amendment
of section
457.

170. In section 457 of the principal Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:—

"(ia) to inspect the records and returns of the company on the files of the Registrar without payment of any fee;"

171. After section 458 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 458A.

9 of 1908.

"458A. Notwithstanding anything in the Indian Limitation Act, 1908 or in any other law for the time being in force, in computing the period of limitation prescribed for any suit or application in the name and on behalf of a company which is being wound up by the Court, the period from the date of commencement of the winding up of the company to the date on which the winding up order is made (both inclusive) and a period of one year immediately following the date of the winding up order shall be excluded."

Exclusion of certain time in computing periods of limitation.

172. In section 463 of the principal Act, in sub-section (1),—

Amendment of section 463.

(a) after the words "imposed on him by this Act", the words and figures "or by the Indian Companies Act, 1913" shall be inserted;

(b) the following proviso shall be added at the end, namely:—

"Provided that where the winding up of a company has commenced before the commencement of this Act, the Court may, on the application of the Central Government, appoint in place of such liquidator the Official Liquidator as the liquidator in such winding up."

173. In section 464 of the principal Act,—

Amendment of section 464.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) (a) The Court may, at the time of making an order for the winding up of a company or at any time thereafter, direct that there shall be appointed a committee of inspection to act with the liquidator.

(b) Where a direction is given by the Court as aforesaid, the liquidator shall, within two months from the date of such direction, convene a meeting of the creditors of the company (as ascertained from its books and documents) for the purpose of determining who are to be members of the committee."

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The liquidator shall, within fourteen days from the date of the creditors' meeting or such further time as the

Court in its discretion may grant for the purpose, convene a meeting of the contributories to consider the decision of the creditors' meeting with respect to the membership of the committee; and it shall be open to the meeting of the contributories to accept the decision of the creditors' meeting with or without modifications or to reject it.”;

(c) in sub-section (3), the words “whether there shall be a committee of inspection; and, if so,” shall be omitted.

Amendment
of section
465.

174. In section 465 of the principal Act, in sub-section (3), the words “and, failing such appointment, at least once a month,” shall be omitted.

Amendment
of section
468.

175. In section 468 of the principal Act,—

(a) for the words “or officer”, the words “officer or other employee” shall be substituted;

(b) for the words “in his hands”, the words “in his custody or under his control” shall be substituted.

Amendment
of section

176. In section 477 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) If, on his examination, any officer or person so summoned admits that he is indebted to the company, the Court may order him to pay to the provisional liquidator or, as the case may be, the liquidator at such time and in such manner as to the Court may seem just, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Court thinks fit, with or without costs of the examination.

(6) If, on his examination, any such officer or person admits that he has in his possession any property belonging to the company, the Court may order him to deliver to the provisional liquidator or, as the case may be, the liquidator, that property or any part thereof, at such time, in such manner and on such terms as to the Court may seem just.

(7) Orders made under sub-sections (5) and (6) shall be executed in the same manner as decrees for the payment of money or for the delivery of property under the Code of Civil Procedure, 1908, respectively.

5 of 1908.

(8) Any person making any payment or delivery in pursuance of an order made under sub-section (5) or sub-section (6) shall by such payment or delivery be, unless otherwise

directed by such order, discharged from all liability whatsoever in respect of such debt or property.”.

177. In section 481 of the principal Act, in sub-section (1), after the words “completely wound up”, the words “or when the Court is of the opinion that the liquidator cannot proceed with the winding up of a company for want of funds and assets or for any other reason whatsoever and it is just and reasonable in the circumstances of the case that an order of dissolution of the company should be made” shall be inserted. Amendment of section 481.

178. In section 488 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely:— Amendment of section 488.

“(b) it is accompanied by a copy of the report of the auditors of the company (prepared, as far as circumstances admit, in accordance with the provisions of this Act) on the profit and loss account of the company for the period commencing from the date up to which the last such account was prepared and ending with the latest practicable date immediately before the making of the declaration and the balance-sheet of the company made out as on the last-mentioned date and also embodies a statement of the company’s assets and liabilities as at that date.”

179. In section 512 of the principal Act, in sub-section (1), in clause (a), for the words, brackets and figures “clauses (i) to (iv) of sub-section (2)”, the words, brackets, letters and figure “clauses (a) to (d) of sub-section (1)” shall be substituted. Amendment of section 512.

180. In section 515 of the principal Act,—

(a) in sub-section (1), for the words “the Court may appoint a liquidator”, the words “the Court may appoint the Official Liquidator or any other person as a liquidator” shall be substituted; Amendment of section 515.

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) The Court may, on cause shown, remove a liquidator and appoint the Official Liquidator or any other person as a liquidator in place of the removed liquidator.

(3) The Court may also appoint or remove a liquidator on the application made by the Registrar in this behalf.

(4) If the Official Liquidator is appointed as liquidator under the proviso to sub-section (2) of section 502 or under

this section, the remuneration to be paid to him shall be fixed by the Court and shall be credited to the Central Government.”.

Omission of section 521.

181. Section 521 of the principal Act shall be omitted.

Amendment of section 524.

182. In section 524 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) The Court may appoint the Official Liquidator as a liquidator under sub-section (1) or to fill any vacancy occasioned under sub-section (2).

(4) The Court may also appoint or remove a liquidator on an application made by the Registrar in this behalf.”.

Amendment of section 529.

183. In section 529 of the principal Act, in sub-section (2), the following proviso shall be added at the end, namely:—

“Provided that if a secured creditor instead of relinquishing his security and proving for his debt proceeds to realise his security, he shall be liable to pay the expenses incurred by the liquidator (including a provisional liquidator, if any) for the preservation of the security before its realization by the secured creditor.”.

Amendment of section 530.

184. In section 530 of the principal Act, in sub-section (1), in clause (b), after the words “relevant date”, the following words, letters and figures shall be inserted, namely:—

“and any compensation payable to any workman under any of the provisions of Chapter VA of the Industrial Disputes Act, 1947.”

14 of 1947

Insertion of new section 531A.

185. After section 531 of the principal Act, the following section shall be inserted, namely:—

Avoidance of voluntary transfer.

“531A. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrancer in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by or subject to the supervision of the Court or the passing of a resolution for voluntary winding up of the company, shall be void against the liquidator.”.

Amendment of section 535.

186. In section 535 of the principal Act, in sub-section (4), for the words “the company shall be deemed to have adopted it”, the words “he shall be deemed to have adopted it” shall be substituted.

187. In section 537 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section
537.

“(2) Nothing in this section applies to any proceedings for the recovery of any tax or impost or any dues payable to the Government.”.

188. In section 546 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section
546.

“(1A) Notwithstanding anything contained in sub-section (1), in the case of a winding up by the Court, the Supreme Court may make rules under section 643 providing that the liquidator may, under such circumstances, if any, and subject to such conditions, restrictions and limitations, if any, as may be specified in the rules, exercise any of the powers referred to in sub-clause (ii) or sub-clause (iii) of sub-section (1) without the sanction of the Court.”.

189. In section 549 of the principal Act, in sub-section (1), for the words “the Central Government”, the words “the Supreme Court” shall be substituted.

Amendment
of section
549.

190. In section 551 of the principal Act,—

Amendment
of section
551.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) If the winding up of a company is not concluded within one year after its commencement, the liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in the prescribed form and containing the prescribed particulars duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation,—

(a) in the case of a winding up by or subject to the supervision of the Court, in Court; and

(b) in the case of a voluntary winding up, with the Registrar :

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 462 apply.”;

(b) in sub-section (5), the following proviso shall be added at the end, namely:—

“Provided that if the liquidator makes wilful default in causing the statement referred to in sub-section (1) to be audited by a person qualified to act as auditor of the company, the liquidator shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”.

Amendment
of section
555.

191. In section 555 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where any company is being wound up, if the liquidator has in his hands or under his control any money representing—

(a) dividends payable to any creditor which had remained unpaid for six months after the date on which they were declared, or

(b) assets refundable to any contributory which have remained undistributed for six months after the date on which they became refundable,

the liquidator shall forthwith pay the said money into the public account of India in the Reserve Bank of India in a separate account to be known as the Company's Liquidation Account.”;

(b) in sub-section (2), for the word “unclaimed”, the word “unpaid” shall be substituted;

(c) in sub-section (9), in clause (a), the following proviso shall be added at the end, namely:—

“Provided that the Central Government may in any proper case remit either in part or in whole the amount of interest which the liquidator is required to pay under this clause.”.

Amendment
of section
582.

192. In section 582 of the principal Act, in clause (b), the words “at the time when the petition for winding up the partnership, association or company, as the case may be, is presented before the Court” shall be inserted at the end.

Amendment
of section
595.

193. In section 595 of the principal Act, in clause (c), the word “, advertisements” shall be omitted.

194. In section 610 of the principal Act,—

Amendment
of section
610.

(a) in sub-section (1),—

(i) for the words "Any person may", the words "Save as otherwise provided elsewhere in this Act, any person may" shall be substituted ;

(ii) in clause (a), after the word "Registrar", the words and figures "in accordance with the rules made under the Destruction of Records Act, 1917" shall be inserted;

5 of 1917.

(iii) in clause (b), for the words "on payment of a fee of five rupees in the case of a certificate of incorporation, and of six annas for every one hundred words or fractional part thereof", the words "on payment in advance of a fee of five rupees in the case of a certificate of incorporation, and of one rupee for every one hundred words or fractional part thereof" shall be substituted;

(b) sub-section (4) shall be omitted.

195. Section 611 of the principal Act shall be re-numbered as sub-section (1) of that section and—

Amendment
of section
611.

(a) in that sub-section as so re-numbered, after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that in the case of resolutions to which section 192 applies, not more than one fee shall be required for the filing of more resolutions than one passed in the same meeting if such resolutions are filed with the Registrar at the same time.";

(b) after that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Any document required or authorised by this Act to be filed or registered, or any fact required or authorised by this Act to be registered, with the Registrar on payment of the fee specified therefor in Schedule X, may, without prejudice to any other liability, be filed or registered after the time, if any, specified in this Act for its filing or registration on payment of such additional fee not exceeding ten times the amount of the fee so specified as the Registrar may determine."

Insertion of
new section
614A in
Part XII.

Power of
Court trying
offences
under the
Act to direct
the filing of
documents
with Regis-
trar.

196. In Part XII, after section 614 of the principal Act, the following section shall be inserted, namely:—

“614A. (1) Any Court trying an offence for a default in compliance with any provision of this Act which requires a company or its officers to file or register with, or deliver or send to, the Registrar, any return, account or other document, may at the time of sentencing, acquitting or discharging the accused, direct by order, if it thinks fit to do so, any officer or other employee of the company to file or register with, deliver or send to, the Registrar on payment of the fee including the additional fee required to be paid under section 611, such return, account or other document within such time as may be specified in the order.

(2) Any officer or other employee of the company who fails to comply with an order of the Court under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.”.

Amendment
of section
616.

197. In section 616 of the principal Act, in clause (c), after the words “the provisions of”, the words and figures “the Indian Electricity Act, 1910, or” shall be inserted.

9 of 1910.

Amendment
of section
617.

198. In section 617 of the principal Act,—

(a) for the words and figures “sections 618, 619 and 620”, the words “this Act” shall be substituted;

(b) for the words “share capital”, the words “paid-up share capital” shall be substituted;

(c) the words “and includes a company which is a subsidiary of a Government company as thus defined” shall be added at the end.

Substitution
of new
section for
section 618.

Government
companies
not to have
managing
agents.

199. For section 618 of the principal Act, the following section shall be substituted, namely:—

“618. No Government company, whether formed before or after the 1st day of April, 1956, shall, after the commencement of the Companies (Amendment) Act, 1960, appoint or employ, or after the expiry of six months from such commencement, continue the appointment or employment of, any managing agent:

Provided that where a company has become a Government company after the 1st day of April, 1956, nothing in this section shall prevent that company from continuing after the commencement of the Companies (Amendment) Act, 1960, the appointment or employment of a managing agent appointed or employed before such commencement.”.

200. After section 619 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 619A.

"619A. (1) Where the Central Government is a member of a Government company, the Central Government shall cause an annual report on the working and affairs of that company to be—

Annual reports on Government companies.

(a) prepared within three months of its annual general meeting before which the audit report is placed under sub-section (5) of section 619; and

(b) as soon as may be after such preparation, laid before both Houses of Parliament together with a copy of the audit report and any comments upon, or supplement to, the audit report, made by the Comptroller and Auditor-General of India.

(2) Where in addition to the Central Government, any State Government is also a member of a Government company, that State Government shall cause a copy of the annual report prepared under sub-section (1) to be laid before the House or both Houses of the State Legislature together with a copy of the audit report and the comments or supplement referred to in sub-section (1).

(3) Where the Central Government is not a member of a Government company, every State Government which is a member of that company, or where only one State Government is a member of the company, that State Government shall cause an annual report on the working and affairs of the company to be—

(a) prepared within the time specified in sub-section (1); and

(b) as soon as may be after such preparation, laid before the House or both Houses of the State Legislature with a copy of the audit report and comments or supplement referred to in sub-section (1)."

201. After section 620 of the principal Act, the following heading and section shall be inserted, namely:—

Insertion of new heading and new section 620A.

'Modification of Act in its application to Nidhis and Mutual Benefit Societies

620A. (1) In this section, "Nidhi" or "Mutual Benefit Society" means a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be.

Power to modify Act in its application to Nidhis, etc.

(2) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act specified in the notification—

(a) shall not apply to any *Nidhi* or Mutual Benefit Society, or

(b) shall apply to any *Nidhi* or Mutual Benefit Society with such exceptions, modifications and adaptations as may be specified in the notification.

(3) A copy of every notification issued under sub-section (1) shall be laid as soon as may be after it is issued, before each House of Parliament.'

Amendment
of section
621.

202. In section 621 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, where the complainant under sub-section (1) is the Registrar or a person authorised by the Central Government, the personal attendance of the complainant before the Court trying the offence shall not be necessary unless the Court for reasons to be recorded in writing requires his personal attendance at the trial."

5 of 1898.

Insertion
of new sec-
tions 624A
and 624B.

Power of
Central
Government
to appoint
company
prosecutors.

203. After section 624 of the principal Act, the following sections shall be inserted, namely:—

"624A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Central Government may appoint generally, or in any case, or for any specified class of cases in any local area, one or more persons, as company prosecutors for the conduct of prosecutions arising out of this Act; and the persons so appointed as company prosecutors shall have all the powers and privileges conferred by that Code on public prosecutors appointed by a State Government under section 492 of that Code.

5 of 1898.

Appeal
against
acquittal.

624B. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Central Government may, in any case arising out of this Act, direct any company prosecutor or authorise any other person either by name or by virtue of his office, to present an appeal from an order of acquittal passed by any Court other than a High Court and an appeal presented by such prosecutor or other person shall be deemed to have been validly presented to the appellate Court."

5 of 1898.

204. In section 627 of the principal Act, in sub-section (1), after the words "by the Central Government", the words, figures and letter "or by a company prosecutor appointed under section 624A" shall be inserted.

Amendment of section 627.

205. After section 629 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 629A.

"629A. If a company or any other person contravenes any provision of this Act for which no punishment is provided elsewhere in this Act or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to five hundred rupees, and where the contravention is a continuing one, with a further fine which may extend to fifty rupees for every day after the first during which the contravention continues."

Penalty where no specific penalty is provided elsewhere in the Act.

206. In section 633 of the principal Act,—

Amendment of section 633.

(a) in sub-section (1), the following proviso shall be added at the end, namely:—

"Provided that in a criminal proceeding under this sub-section, the Court shall have no power to grant relief from any civil liability which may attach to an officer in respect of such negligence, default, breach of duty, misfeasance or breach of trust." ;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a Court before which a proceeding against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (1).

(3) No Court shall grant any relief to any officer under sub-section (1) or sub-section (2) unless it has, by notice served in the manner specified by it, required the Registrar and such other person, if any, as it thinks necessary, to show cause why such relief should not be granted,"

Insertion of
new heading
and new sec-
tion 637A.

207. After section 637 of the principal Act, the following heading and section shall be inserted and shall be deemed always to have been inserted, namely:—

“Grant of approval, etc., subject to conditions and levy of fees on applications

Power of
Central Go-
vernment to
accord ap-
proval, etc.
subject to
conditions
and to pre-
scribe fees on
applications.

637A. (1) Where the Central Government is required or authorised by any provision of this Act,—

(a) to accord approval, sanction, consent, confirmation or recognition to or in relation to, any matter;

(b) to give any direction in relation to any matter; or

(c) to grant any exemption in relation to any matter,

then, in the absence of anything to the contrary contained in such or any other provision of this Act, the Central Government may accord, give or grant such approval, sanction, consent, confirmation, recognition, direction or exemption subject to such conditions, limitations or restrictions as it may think fit to impose and may, in the case of contravention of any such condition, limitation or restriction, rescind or withdraw such approval, sanction, consent, confirmation, recognition, direction or exemption.

(2) Save as otherwise expressly provided in this Act, every application which may be, or is required to be, made to the Central Government under any provision of this Act—

(a) in respect of any approval, sanction, consent, confirmation or recognition to be accorded by that Government to, or in relation to, any matter; or

(b) in respect of any direction or exemption to be given or granted by that Government in relation to any matter; or

(c) in respect of any other matter,

shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed:

Provided that different fees may be prescribed for applications in respect of different matters or in case of applications by companies, for applications by different classes of companies.”

Omission of
heading and
section 639.

208. (1) Section 639 of the principal Act and the heading above it shall be omitted.

(2) For the removal of doubt it is hereby declared that nothing in section 639 of the principal Act before its omission by sub-section (1) of this section shall be deemed ever to have required the Central Government to prepare, and lay before both Houses of Parliament, any annual report on the working and affairs of a Government company of which the Central Government is not a member.

209. After section 640 of the principal Act, the following heading and section shall be inserted, namely:—

Insertion of new heading and new section after section 640.

"Computation of time for filing orders of Court

640A. Except as expressly provided in this behalf elsewhere in this Act, where by any provision of this Act, any order of the Court is required to be filed with the Registrar, or a company or any other person within a period specified therein, then, in computing that period, the time taken in drawing up the order and in obtaining a copy thereof shall be excluded."

Exclusion of time required in obtaining copies of orders of Court.

210. In section 641 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 641.

"(3) Every alteration made by the Central Government under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration."

211. In section 642 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

Amendment of section 642.

"(2) Any rule made under sub-section (1) may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and where the contravention is a continuing one, with a further fine which may extend to fifty rupees for every day after the first during which such contravention continues.

(3) Every rule made by the Central Government under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in

which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Amendment
of section
643.

212. In section 643 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words, brackets and figures “sub-section (1) of section 549 and sub-section (3) of section 550”, the words, brackets and figures “sub-section (3) of section 550, section 552 and sub-section (3) of section 555” shall be substituted;

(ii) in clause (b), in sub-clause (iv), the words “and the sub-division of the shares of a company” shall be omitted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) All rules made by the Central Government under sub-section (1) of section 549 and in force immediately before the commencement of the Companies (Amendment) Act, 1960 shall continue in force and be deemed to have been made by the Supreme Court unless and until they are superseded by rules made by the Supreme Court after such commencement.”.

Amendment
of section.
647.

213. In section 647 of the principal Act, the following proviso shall be added at the end, namely:—

“Provided that where the proceedings in any such winding up are pending at the commencement of the Companies (Amendment) Act, 1960,—

(a) sections 463, 502, 515 and 524 shall, as far as may be, also apply in relation thereto;

(b) the liquidator appointed by the Court and functioning in any such winding up shall in such manner and at such time as may be prescribed by the Central Government, pay the moneys received by him as such liquidator, into the public account of India in the Reserve Bank of India."

214. Section 650 of the principal Act shall be omitted.

Omission
of section
650.

215. In Schedule I to the principal Act, in Table A, in regulation 3, in clauses (1) and (2), the word "general" shall be omitted.

Amendment
of Schedule
I.

216. After Schedule I to the principal Act, the following Schedule shall be inserted, namely:—

Insertion of
new Schedule
IA.

"SCHEDULE IA

[See section 6(c)]

LIST OF RELATIVES

1. Father.
2. Mother (including step-mother).
3. Son (including step-son).
4. Son's wife.
5. Daughter (including step-daughter).
6. Father's father.
7. Father's mother.
8. Mother's mother.
9. Mother's father.
10. Son's son.
11. Son's son's wife.
12. Son's daughter.
13. Son's daughter's husband.
14. Daughter's husband.
15. Daughter's son.
16. Daughter's son's wife.
17. Daughter's daughter.
18. Daughter's daughter's husband.

19. Brother (including step-brother).
20. Brother's wife.
21. Sister (including step-sister).
22. Sister's husband.
23. Husband's father.
24. Husband's mother.
25. Husband's sister.
26. Wife's father.
27. Wife's mother.
28. Wife's brother.
29. Wife's sister.
30. Wife's sister's husband.
31. Father's brother.
32. Father's sister.
33. Mother's brother.
34. Mother's sister.
35. Father's brother's wife.
36. Father's sister's husband.
37. Mother's brother's wife.
38. Mother's sister's husband.
39. Brother's son.
40. Brother's son's wife.
41. Brother's daughter.
42. Sister's son.
43. Sister's daughter.
44. Father's brother's son.
45. Father's brother's daughter.
46. Father's sister's son.
47. Father's sister's daughter.
48. Mother's brother's son.
49. Mother's brother's daughter."

Amendment of Schedule VI. 217. In Schedule VI to the principal Act,—

(a) for Part I, the following Part shall be substituted, namely:—

'PART I—FORM OF BALANCE-SHEET

*Balance-Sheet of.....(Here enter the name of the company)
As at.....(Here enter the date as at which the balance-sheet is made out)*

Instructions in accordance with which liabilities should be made out	Liabilities		Assets		Instructions in accordance with which assets should be made out
	Figures for the previous year	Figures for the current year	Figures for the previous year	Figures for the current year	
<p>*Terms of redemption or conversion (if any) of any Redeemable Preference Capital to be stated, together with earliest date of redemption or conversion.</p> <p>Particulars of any option on unissued share capital to be specified.</p> <p>†Particulars of the different classes of preference shares to be given.</p>	<p>Rs. (b)</p> <p>*SHARE CAPITAL :— Authorised.....shares of Rs.....each. †Issued (distinguishing between the various classes of capital and stating the particulars specified below, in respect of each class)shares of Rs...each. ‡Subscribed (distinguishing between the various classes of capital and stating the particulars specified below, in respect of each class.) (c)shares of Rs.....each.</p>	<p>Rs. (b)</p>	<p>Rs. (b)</p> <p>*FIXED ASSETS :— Distinguishing as far as possible between expenditure upon (a) goodwill, (b) land, (c) buildings, (d) leaseholds, (e) railway sidings, (f) plant and machinery, (g) furniture and fittings, (h) development of property, (i) patents, trade marks and designs, (j) live-stock and (k) vehicles, etc.</p>	<p>Rs. (b)</p>	<p>*Under each head the original cost, and the additions thereto and deductions therefrom during the year, and the total depreciation written off or provided up to the end of the year to be stated.</p> <p>In case where original cost cannot be ascertained, the valuation shown by the books shall be given and where any of the assets are sold and the original cost in respect thereof is not ascertainable, the amount of the sale proceeds shall be shown as deducted.</p>

Instructions in accordance with which liabilities should be made out	Liabilities		Assets		Instructions in accordance with which assets should be made out
	Figures for the previous year	Figures for the current year	Figures for the previous year	Figures for the current year	
	Rs. (b)	Rs. (b)	Rs. (b)	Rs. (b)	
	<p>Rs..... called up. Of the above shares,... shares are allotted as fully paid up pursuant to a contract without payments being re- ceived in cash.</p> <p>Of the above shares,.... shares are allotted as fully paid up by way of bonus shares or other shares by way of capitalisation of profits or reserves or/and from share premium account.</p> <p>Less : Calls unpaid : (i) By managing agent or secretaries and treasurers and where the managing agent or secretaries and treasurers are a firm, by the partners there- of, and where the managing agent or secretaries and trea- surers are a private</p>				Where sums have been written off on a reduction of capital or a revaluation of assets, every balance-sheet, (after the first balance-sheet) subsequent to the reduction or revaluation shall show the reduced figures

company, by the directors or members of that company.

(ii) By directors.

(iii) By others.

Add : Forfeited shares

***RESERVES AND SURPLUS :**

- (1) Capital Reserves not available for Dividend.
 - (2) Capital Redemption Reserve.
 - (3) Share Premium Account(cc).
 - (4) Other Reserves specifying the nature of each reserve and the amount in respect thereof.
- Less : Debit balance in Profit and Loss Account (if any).*
- (5) Any other Reserve created out of Net Profit.
 - (6) Surplus that is balance in Profit and Loss Account after providing for proposed allocations, viz.,

*Additions and deductions since last balance-sheet to be shown, under each of the specified heads.

The word "fund" in relation to to any "Reserve" should be used only where such Reserve is specifically represented by readily realisable and earmarked assets.

and with the date of the reduction in place of the original cost.

Each balance-sheet for the first five years subsequent to the date of the reduction, shall show also the amount of the reduction made.

Similarly, where sums have been added by writing up the assets, every balance-sheet subsequent to such writing up shall show the increased figures with the date of the increase in place of the original cost. Each balance-sheet for the first five years subsequent to the date of writing up shall also show the amount of increase made.

INVESTMENTS :

Showing nature of investments and mode of valuation, for example cost or market value and distinguishing between—

- *(1) Investments in Government or Trust Securities.
- *(2) Investments in shares, debentures or bonds (showing separately shares, fully paid up and partly paid up and also distinguishing the different classes of shares

*Aggregate amount of company's quoted investments and also the market value thereof shall be shown.
Aggregate amount of company's unquoted investments shall also be shown.

Instructions in accordance with which liabilities should be made out	Liabilities		Assets		Instructions in accordance with which assets should be made out
	Figures for the previous year	Figure(s) for the current year	Figures for the previous year	Figures for the current year	
	Rs. (b)	Rs. (b)	Rs. (b)	Rs. (b)	
	Dividend, Bonus or Reserves. (7) Proposed additions to reserves. (8) Sinking Funds.		and showing also in similar details investments in shares, debentures or bonds of subsidiary companies. (3) Immovable properties.		
*The nature of the security to be specified in each case. Where loans have been guaranteed by managing agents, secretaries and treasurers, managers and/or directors, a mention thereof shall also be made and also the aggregate amount of such loans under each head. †Terms of redemption or conversion (if any) of debentures issued to be stated together with earliest date of redemption or conversion.	SECURED LOANS : *(1) Debentures† *(2) Loans and Advances from Banks. *(3) Loans and Advances from subsidiaries. *(4) Other Loans and Advances.		CURRENT ASSETS, LOANS AND ADVANCES : (A) Current Assets. (1) Interest accrued on Investments. ††(2) Stores and Spare Parts. ††(3) Loose Tools. ††(4) Stock-in-trade. ††(5) Works in Progress. †(6) Sundry Debtors. (a) Debts outstanding for a period exceeding six months. (b) Other debts. Less : Reserve. †(7) Cash and bank balances.		††Mode of valuation of stock shall be stated and the amount in respect of raw materials shall also be stated separately where practicable. **Mode of valuation of works in-progress shall be stated. †In regard to Sundry Debtors particulars to be given separately of—(a) debts considered good and in respect of which the company is fully secured;

and (b) debts considered good for which the company holds no security other than the debtor's personal security; and (c) debts considered doubtful or bad.

Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member to be separately stated.

Debts due from other companies under the same management to be disclosed with the names of the companies (*vide* section 370).

The maximum amount due by directors or other officers of the company at any time during the year to be shown by way of a note.

The Reserves to be shown under this head should not exceed the amount of debts stated to be considered doubtful or bad and any surplus of such Reserves, if already created, should be shown at every closing under "Reserves and Surplus" (in the Liabilities side) under a separate sub-head "Reserve for Doubtful or Bad Debts".

Instructions in accordance with which liabilities should be made out	Liabilities		Assets		Instructions in accordance with which assets should be made out
	Figures for the previous year	Figures for the current year	Figures for the previous year	Figures for the current year	
	Rs. (b)	Rs. (b)	Rs. (b)	Rs. (b)	†The balances lying with bankers on current accounts, call accounts and deposit accounts shall be shown separately.
†Where loans have been guaranteed by managing agents, secretaries and treasurers, managers, and/or directors, a mention thereof shall also be made and also the aggregate amount of such loans under each head. *See note (d) at foot of Form.	<p>UNSECURED LOANS :</p> <p>(1) Fixed Deposits.</p> <p>†(2) Loans and Advances from subsidiaries.</p> <p>†*(3) Short Term Loans and Advances :</p> <p>(a) From Banks.</p> <p>(b) From others.</p> <p>†(4) Loans and Advances :</p> <p>(a) From Banks.</p> <p>(b) From others.</p> <p>CURRENT LIABILITIES AND PROVISIONS :</p> <p>A. Current Liabilities.</p> <p>(1) Acceptances.</p> <p>(2) Sundry Creditors.</p> <p>(3) Subsidiary Companies.</p> <p>(4) Provision for Taxation.</p> <p>(5) Proposed Dividends.</p>		<p>†(B). Loans and Advances.</p> <p>(8) Advances and Loans to</p>		

(6) Advance Payments and Un-expired Discounts for the portion for which value has still to be given, e.g., in the case of the following classes of companies :

(Newspaper, Fire Insurance, Theatre, Clubs, Banking, Steamship Companies, etc.)

(7) Unclaimed Dividends.

(8) Other Liabilities (if any).

(9) Interest accrued and accruing on secured loans.

(10) Interest accrued and accruing on unsecured loans.

B. Provisions.

(11) For contingencies.

(12) For Provident Fund scheme.

(13) For insurance, pension and similar staff benefit schemes.

(14) Other provisions.

†† The period for which the dividends are in arrear or if there is more than one class of shares, the dividends on each such class are in arrear, shall be stated.

The amount shall be stated before deduction of Income-tax, except that

[A foot-note to the balance-sheet may be added to show separately :—

(1) Claims against the company not acknowledged as debts.

(2) Uncalled liability on shares partly paid.

††(3) Arrears of fixed cumulative dividends

(4) Estimated amount of contracts remaining to be executed on capital account and not provided for.

subsidiaries.

(9) Bills of Exchange.

(10) Advances recoverable in cash or in kind or for value to be received, e.g., Rates, Taxes, Insurance, etc.

(11) Balances on current account with Managing Agents or Secretaries and Treasurers.

(12) Balances with Customs, Port Trust, etc. (where payable on demand).

†The above instructions regarding "Sundry Debtors" apply to "Loans and Advances" also.

Instructions in accordance with which liabilities should be made out	Liabilities		Assets		Instructions in accordance with which assets should be made out
	Figures for the previous year	Figures for the current year	Figures for the previous year	Figures for the current year	
<p>in the case of tax-free dividends the amount shall be shown free of income-tax and the fact that it is so shown shall be stated.</p> <p>The amount of any guarantees given by the company on behalf of directors or other officers of the company shall be stated and where practicable, the general nature and amount of each such contingent liability, if material, shall also be specified.</p>	<p>Rs. (b) †(s) Other money for which the company is contingently liable.]</p>		<p>Rs. (b) MISCELLANEOUS EXPENDITURE (to the extent not written off):</p> <p>(1) Preliminary expenses.</p> <p>(2) Expenses including commission or brokerage on underwriting or subscription of shares or debentures.</p> <p>(3) Discount allowed on the issue of shares or debentures.</p> <p>(4) Interest paid out of capital during construction (also stating the rate of interest).</p> <p>(5) Development expenditure not adjusted.</p> <p>(6) Other items (specifying nature).</p> <p>PROFIT AND LOSS ACCOUNT</p> <p>Loss brought forward. Less : Reserves set off.</p>		

NOTES

General instruction for preparation of balance-sheet—(a) The information required to be given under any of the items or sub-items in this Form, if it cannot be conveniently included in the balance-sheet itself, shall be furnished in a separate Schedule or Schedules to be annexed to and to form part of the balance-sheet. This is recommended when items are numerous.

(b) *Naye Paisa* can also be given in addition to Rupees, if desired.

(c) In the case of subsidiary companies, etc., the number of shares held by the holding company as well as by the ultimate holding company and its subsidiaries must be separately stated.

The auditor is not required to certify the correctness of such share-holdings as certified by the management.

(cc) The item "Share Premium Account" shall include full details of its utilization in the manner provided in section 78.

(d) Short Term Loans will include those which are due for not more than one year as at the date of the balance-sheet.

(e) Depreciation written off or provided shall be allocated under the different asset heads and deducted in arriving at the value of Fixed Assets.

(f) Dividends declared by subsidiary companies after the date of the balance-sheet cannot be included unless they are in respect of period which closed on or before the date of the balance-sheet.

(g) Any reference to benefits expected from contracts to the extent not executed shall not be made in the balance-sheet but shall be made in the Board's report.

(h) The debit balance in the Profit and Loss Account shall be set off against the General Reserve, if any.

(i) As regards Loans and Advances, amounts due by the Managing Agents or Secretaries and Treasurers, either severally or jointly with any other persons, to be separately stated; the amounts due from other companies under the same management should also be given with the names of the companies *vide* section 370; the maximum amount due from every one of these at any time during the year must be shown.

(j) Particulars of any redeemed debentures which the company has power to issue should be given.

(k) Where any of the company's debentures are held by a nominee or a trustee for the company, the nominal amount of the debentures and the amount at which they are stated in the books of the company shall be stated.

(l) A statement of investments (whether shown under "Investments" or under "Current Assets" as stock-in-trade) separately classifying trade investments and other investments should be annexed to the balance-sheet showing the names of the bodies corporate, indicating separately the names of the bodies corporate in the same group (with the name of the managing agent or secretaries and treasurers, if any, of every body corporate) in whose shares or debentures investments have been made (including all investments whether existing or not, made subsequent to the date as at which the previous balance-sheet was made out) and the nature and extent of the investments so made in each such body corporate, provided that in the case of an investment company, that is to say, a company whose principal business is the acquisition of shares, stock, debentures or other securities, it shall be sufficient if the statement shows only the investments existing on the date as at which the balance-sheet has been made out, provided further that it shall not be necessary to give any particulars in respect of investments made by a managing agency or secretaries and treasurers company in the managed companies' shares or debentures.

A "Trade Investment" means an investment by a company in the shares or debentures of another company, not being its subsidiary, for the purpose of promoting the trade or business of the first company.

(m) If, in the opinion of the Board, any of the current assets have not a value on realisation in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion shall be stated.

(n) Except in the case of the first balance-sheet laid before the company after the commencement of the Act, the corresponding amounts for the immediately preceding financial year for all items shown in the balance-sheet shall be also given in the balance-sheet. The requirement in this behalf shall in the case of companies preparing quarterly or half-yearly accounts, etc., relate to the balance-sheet for the corresponding date in the previous year.

(o) The amounts to be shown under Sundry Debtors shall include the amounts due in respect of goods sold or services rendered or in respect of other contractual obligations but shall not include the amounts which are in the nature of loans or advances.

(p) Advances by Directors, Managing Agents, Secretaries and Treasurers, Managers as also balances on current account with them whether they are in credit or debit shall be shown separately; ;

(b) in Part II,—

(i) in paragraph 3,—

(1) in sub-paragraph (iii), for the words “works remained to be executed”, the words “such works have been completed” shall be substituted;

(2) in sub-paragraph (v), for the word “payable”, the words “paid or payable” shall be substituted;

(3) in sub-paragraph (x), in item (f) (3), the following words shall be added at the end, namely:—

“to the extent not adjusted from any previous provision or reserve.

Note.—Information in respect of this item should also be given in the balance-sheet under the relevant provision or reserve account.”;

(4) in sub-paragraph (xii) (a), the following words shall be added at the end, namely:—

“to the extent not adjusted from any previous provision or reserve.

Note.—Information in respect of this item should also be given in the balance-sheet under the relevant provision or reserve account.”;

(ii) for paragraph 4, the following paragraphs shall be substituted, namely:—

“4. The profit and loss account shall also contain or give by way of a note detailed information in regard to the following payments received during the financial year by the directors (including managing directors), the managing agent, secretaries and treasurers or manager, if any, from the company, the subsidiaries of the company:—

(i) managerial remuneration, that is to say, amounts paid during the financial year to the

directors (including managing directors), the managing agent, secretaries and treasurers or manager, if any;

(ii) expenses reimbursed to the managing agent under section 354;

(iii) commission or other remuneration payable separately to a managing agent or his associate under sections 356, 357 and 358;

(iv) commission received by the managing agent as buying or selling agent of other concerns under section 359;

(v) the money value of the contracts for the sale or purchase of goods and materials or supply of services, entered into by the company with the managing agent or his associate under section 360 during the financial year;

(vi) other allowances (details to be given);

(vii) any other perquisites or benefits in cash or in kind (stating approximate money value where practicable);

(viii) pensions, etc.,--

(a) pensions,

(b) gratuities,

(c) payments from provident funds, in excess of own subscriptions and interest thereon,

(d) compensation for loss of office,

(e) consideration in connection with retirement from office.

4A. The profit and loss account shall further contain or give by way of a note detailed information in regard to amounts paid to the auditor, whether as fees, or otherwise for services rendered—

(a) as auditor; and

(b) in any other capacity.”.

218. In Schedule VII to the principal Act, clause (1) shall be omitted. Amendment
of Schedule
VII.

R. C. S. SARKAR, Secy.

